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**Subjects at Sea: Navigating Power in the British Mediterranean, 1661-
1783**

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1783**

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Subjects at Sea: Navigating Power in the British Mediterranean, 1661-1783

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In 1608 an English court ruled that those born within the King's domain were English subjects. Subjects had obligations to the Crown, but they also received certain rights and privileges. On land they were protected by the common law and could petition the King. At sea, treaties kept them safe from the "Barbary pirates"—privateers that captured ships and ransomed or enslaved their sailors. During wartime, British subjects could privateer themselves, with a commission to plunder the ships of England's enemies. What would "British subject" come to mean as the King's domains expanded across the seas? Even as the British began to embark on the territorial conquests that would subject people on the other side of the globe to British rule, Britain was already cultivating a maritime empire of diverse subjects right in the heart of Europe. *Subjects at Sea* explores the often forgotten history of the eighteenth-century British Mediterranean. In this maritime sphere, sailors, diplomats, inhabitants, and imperial administrators interpreted and negotiated British sovereignty and subjecthood through accommodation, collaboration, and diplomacy—not colonization or conquest. It explores the entangled political, social, and cultural currents of government policy and individual experience through the lens of subjecthood. Resource-poor and on the very doorstep of imperial rivals France and Spain, Britain's tiny military strongholds in Gibraltar and Menorca would depend on successful diplomacy with North Africa for provisions. With few native-born Britons to hand, imperial administrators needed new subjects to sail the ships that would supply and protect the colonies. A series of decrees and treaties extended

many of the rights and protections of subjecthood to the diverse inhabitants of these colonies, regardless of their religion or national origin. Long before its global imperial conquests of the 1760s, Britain developed a diverse maritime empire in the Mediterranean—affirming the subjecthood of Catholics and Jews, Moroccans, Genoese and others. These diverse and mobile people would don, shed, and transform British subjecthood as they navigated the conflicting currents of trade, war and power in the eighteenth-century Mediterranean. In so doing their world offers new insights into the varied history of the eighteenth-century British Empire.

Table of Contents

List of Illustrations	vii
Introduction	8
Chapter 1. Performing Subjecthood: Identity, Allegiance and Establishing a British Mediterranean	45
Chapter 2. Rule By Treaty: Limited Sovereignty and Expanding Subjecthood ...	94
Chapter 3. Civilities and Offences: Diplomacy, Trade and Courting the Maghreb	145
Chapter 4. A Sea of Wax and Ink	200
Chapter 5. Navigating Authority, Negotiating Subjecthood	257
Afterword. "To the shores of Tripoli": British Subjecthood and the British Mediterranean in the Age of the New American Republic and the Napoleonic Wars	318
Bibliography	330

List of Illustrations

Porto Farina Castle, Edward Coxere, 1684	60
Bill of Health, <i>Lovely Peggy</i>, Algiers, 1756.....	238
Forged Letter of Introduction, “Joseph Hudson,” 1725	252

Introduction

The voyage from the British Isles to the Mediterranean Sea was not, in the grand scheme of global maritime empire, a long one. The fastest clippers might, if friendly winds prevailed, make the journey in just under two weeks. Navy Ships left the busy southern harbor of Portsmouth and sailed south to the British garrisons at Gibraltar or Menorca—the empire’s tiny toeholds in that great sea “in the middle of the land.”¹ Merchant ships from London made a longer journey, leaving behind the empire’s throbbing metropolis to travel east down the Thames toward the ocean. From the coast they headed south, passing between the “chalky hills” of Dover and Calais—the “narrowest part of the channel, between France and England,” where sailors could see “the coasts of both these powerful kingdoms at the same time.”² Rounding the sharp finger of Brittany, ships might traverse against the rough winds of the Bay of Biscay toward the northwestern tip of the Iberian Peninsula. Here, they would arrive at the end of the earth: the sharp peaks the Romans called *finis terre*, or “Land’s End,” where the “known world” ended, or, in this case, perhaps, began.³

Historians of the eighteenth century British Empire rarely focus on the Mediterranean. The history of the two small British outposts in that sea is dwarfed by the histories of the American colonies and their revolution, the rise of the Atlantic slave trade, and the conquests of the East India Company. The Mediterranean, however, was a

¹ From the Latin *mediterraneus*: *medius*, “middle” and *terra*, “land.” Coined by the Romans, it was probably first been used in the third century A.D. by the geographer Solinus. Kai Brodersen, “Mediterranean Sea and Region,” in M. Gagarin and E. Fantham eds., *Oxford Encyclopedia of Ancient Greece and Rome* (New York: Oxford University Press, 2010), 4: 387.

² Fredrik Hasselquist, *Voyages and Travels in the Levant in the Years 1749, 50, 51, 52: Containing Observations in Natural History, Physick, Agriculture, and Commerce, Particularly on the Holy Land, and the Natural History of the Scriptures* (London: L. Davis and C. Reymers, 1766), 10.

³ Cape Finisterre.

unique sphere for the quickly growing empire. It was a diverse maritime space where Britain both exercised and navigated power in a region that was largely outside its territorial sovereignty and was full of fierce imperial rivals and other strong states.

The capture of Menorca in 1708 gave Britain a safe and ample harbor for its fleet, and a base from which it could protect trade with the Levant and monitor the French Navy at Toulon. The capture of Gibraltar in 1704 gave Britain dominance over “the greatest thoroughfare of trade in the world”: the narrow passage between Africa and Europe, Islam and Christendom, sea and ocean, old world and new.⁴ Close enough to England that armies, warships, and dispatches might be sent in a matter of weeks, these tiny strongholds of British military power and imperial ambition were in the heart of maritime Europe—surrounded by hostile or powerful states. The Mediterranean was also the home of linguistically, culturally, and religiously diverse peoples who lived and thrived, as they had done for millennia, by crossing the blurry boundaries of national, cultural, or ethnic identities in pursuit of trade. In the midst of intense eighteenth-century imperial competition, the British government, British subjects, and other inhabitants of the Mediterranean had to navigate carefully the conflicting currents of power that swirled throughout the “middle sea.”⁵

The garrison-colonies in the western Mediterranean made that sea a cockpit of Britain’s global empire in the center of maritime Europe. It was, however, peopled and managed by a mere handful of native-born Britons: garrisoned soldiers, sailors and merchants, consuls, and admirals. The colonies themselves were inhabited almost entirely by Mediterranean locals. In Menorca, the Catalan-speaking natives were a largely

⁴ Harley to Newcastle, 5- 16 September 1704, Historical Manuscripts Commission, *The Manuscripts of the Duke of Portland Vol. II* (London: H.M.S.O, 1907), 186.

⁵ Greek (*Mesogeios*), Latin (*Mare internum*), German (*Mittelmeer*), Arabic (*al-Baḥr al-Mutawassit*)

agrarian population who were slowly joined by small but influential communities of Greek and Jewish merchants—welcomed by the British as potential allies against the “popish” locals. By 1750 there were at least 546 “foreigners” on the island (excluding British-born subjects) and 21,073 native Menorcans.⁶ In Gibraltar, where all but a few of the original Spanish families fled the British invasion, a motley group of merchants and adventurers, artisans and prostitutes, sailors, butchers, smugglers, and laborers flocked to the Rock from across the western Mediterranean. By 1725 there were 414 Genoese inhabitants, 400 Spaniards, 137 Jews, 113 British, 23 French, 21 Dutch, and 5 “Algerians and Moors.”⁷ By the end of the eighteenth century Menorca had over 26,000 inhabitants and Gibraltar over 3,000—many of whom were British subjects, but only a few of whom had been born in the British Isles.⁸ The British would need these inhabitants to help supply the Mediterranean garrisons, and protect the colonies in private warships. However, only ships sailed by British subjects were protected from attack by “Barbary pirates,” or could obtain letters of marque from the crown to operate as privateers. With so few native-born subjects in the region, the British would have to extend the rights and protections of subjecthood to natives of the Mediterranean. Over the course of the eighteenth century, Britain would bolster its limited power in that sea by extending the practical rights of British subjecthood to a diverse array of people. As the century wore on, the British would extend these rights and protections not only to native Menorcans or

⁶ State of Natives and Inhabitants of Minorca 1750, TNA CO 174/2 f. 216.

⁷ The Number of Inhabitants in Gibraltar Spaniards and others Exclusive of those belonging to the Troops and Navy, 20 August 1725 (O.S.), TNA CO 91/1 f. 195.

⁸ David Whamond Donaldson, “Britain and Menorca in the Eighteenth Century,” (PhD diss., Open University, 1994), 467; List of Inhabitants 1777, GGA, Demography. Gibraltar saw an exponential population growth during the Napoleonic wars. By 1816 it would have over 10,000 residents. See Stephen Constantine, *Community and Identity: The Making of Modern Gibraltar since 1704* (Manchester: Manchester University Press, 2009), 30.

Gibraltar, but, in fact, to anyone who could help protect and sustain the colonies, regardless of national origin or religion. By the middle of the eighteenth century the British Mediterranean was a place in which anyone—Italian, Portuguese, Spanish, Catalan, or Jew—could plausibly claim many of the rights and protections of British subjecthood.

THE BRITISH MEDITERRANEAN: WAR AND TRADE

This “British Mediterranean” flowed between the British Isles and the Levant with the circulation of ships and people, goods and dispatches. It was not a fixed geographical space. Instead, it ran across the English Channel, through the treacherous Bay of Biscay, past the ports of Lisbon, Porto, Faro and Cadiz, where English ships might stop for fruit and olive oil on their homeward journey, and through the Strait of Gibraltar. As sailors neared the mouth of the Mediterranean, the coast of North Africa came into sight—the home of the dreaded “Barbary Pirates” who patrolled the western Mediterranean and the eastern Atlantic, taking ships that did not carry the Mediterranean passes that protected British vessels.⁹ At the entrance to the sea, strong easterly winds might force a ship to cruise between the coasts of Spain and Africa for several days before it could enter the slender strait—just eight miles wide at its narrowest point. British Navy ships might be bound for Gibraltar, where they would dispatch reinforcements or supplies for the garrison before heading deeper into the Mediterranean to cruise off Toulon. Then, perhaps, they might head to the capacious harbor of Menorca where the British fleet wintered. Merchant ships might sail onward and load drinking

⁹ Erik Gøbel defines this area as between the Azores, Cape Finistre and the Canaries, arguing that this area must be considered in any study of the Western Mediterranean. See “The Danish ‘Algerian Sea Passes’, 1747-1838: An Example of Extraterritorial Production of ‘Human Security,’ *Historical Social Research* 35, no. 4 (2010): 164–89, 166.

water in Barcelona before pushing on to the English trading factory at Livorno, or through the Greek archipelago to Smyrna or Constantinople, or perhaps continue further east into the Levant to English factories at Aleppo or Alexandria. This British Mediterranean was not a static space, but was instead a maze of journeys. It was a web of connections built on communication and trade between tiny outposts: British trading factories and consulates at Mediterranean port cities, and the garrisons at Gibraltar and Menorca.

By the seventeenth century, English shipping had gained a unique position in the Mediterranean Sea. The Levant Company received a charter from the English crown for trade with the Ottoman Empire in the late sixteenth century, and English ships had almost entirely taken over trade between England and Mediterranean ports by the start of the seventeenth century. By 1600 it was unusual for a merchant ship of any Mediterranean state to appear in the English Channel.¹⁰ When the Thirty Years War closed the overland routes between Italy and North Western Europe in the 1620s, trade between England and Italy became almost wholly seaborne and was largely centered in Livorno.¹¹ For most of the seventeenth century, the Levant Company trade surpassed the East India Company and by the 1660s and the Mediterranean and southern Europe made up almost half of England's overseas trade.¹² The Mediterranean was also the first region in which English ships played a significant role carrying goods between foreign ports. Often neutral in

¹⁰ Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries* (London: Macmillan, 1962), 242.

¹¹ Davis, *English Shipping*, 244.

¹² Gigliola Pagano de Divitiis, *English Merchants in Seventeenth-Century Italy*, trans. Stephen Parkin (Cambridge: Cambridge University Press, 1990), 128; Robert Brenner, *Merchants and Revolution : Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653* (London and New York: Verso, 2003), 29; Sari R. Hornstein, *The Restoration Navy and English Foreign Trade, 1674-1688: A Study in the Peacetime Use of Sea Power* (London: Scholar Press, 1991), 36-42.

Mediterranean wars, England's Protestantism meant that its ships could be acceptable to North African states (who were more concerned with attacking longtime Catholic enemies), and immune from Tuscan and Maltese privateers who preyed on Muslim shipping.¹³

The prime article of British trade with the Ottoman Empire was English cloth, as well as tin, salt, coal, and sundry manufactures.¹⁴ In return, the Levant provided silk, cotton, carpets, mohair, and goats' hair for the textile industries; special products such as alum used for dyeing; sponges; aloes, figs, raisins, honey, pistachios and almonds, olive oil and fruits, coffee, and a range of drugs and spices.¹⁵ After 1610 the East India Company's agents began to sell large quantities of pepper and other Asian and South Asian goods for the Mediterranean market. These goods were often unloaded in Livorno, from where they were distributed widely across the region.¹⁶ From Portugal came figs, oranges, lemons and port wine. Cod came directly on board English ships to the Iberian Peninsula and other Catholic domains from Newfoundland. Corn exports from England to the Iberian Peninsula also rose in the seventeenth and eighteenth centuries.¹⁷

Britain gained the military outposts that might protect English trade in the Mediterranean, just as that trade was in decline. Although between 1621 and 1721, English imports of raw silk from the Levant increased by 275 percent, by 1730 this trade

¹³ Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries*, (New York: St. Martin's Press, 1962), 247.

¹⁴ Davis, *English Shipping*, 229.

¹⁵ Alfred C. Wood, *A History of the Levant Company* (New York: Routledge, 1964), 212 n1; Ralph Davis, *Aleppo and Devonshire Square: English Traders in the Levant in the Eighteenth Century* (New York: Routledge, 2000), 27-28, 190-1; Jeremy Black and Philip Woodfine, *The British Navy and the Use of Naval Power in the Eighteenth Century* (Continuum International Publishing Group, Limited, 1988), 223.

¹⁶ Davis, *English Shipping*, 244.

¹⁷ Davis, *English Shipping*, 229-230.

was waning.¹⁸ European consumption of Levant silk was being supplanted by silk of better quality produced in Italy as well as cheaper silk from China and Bengal. English merchants also faced competition from the French who, by the middle of the century, had taken a large share of the silk trade.¹⁹ Other commodities faced competition as well. In the late sixteenth century import of cotton from the Caribbean was on the rise. After the 1730s, Arabian coffee was largely replaced by West Indian, which even began to be imported to the Ottoman Empire itself.²⁰ The long wars with Spain and France in the eighteenth century and the blockades and privateering attacks that ensued also helped depress the British Levant trade. In 1779 during the American War, for example, no English ship was able to reach Istanbul for eight months.²¹

As the Levant trade waned in importance, however, the British colonies in the western Mediterranean gained importance as military strongholds in Europe. They also had strong symbolic significance. Gibraltar, for example, was considered “a bulwark of Great Britain”²² The “Grand Assault” on Gibraltar was the biggest single battle of the American War of Independence, involving over 60,000 soldiers, sailors, and marines.²³ When the Americans rebelled, long-time British enemies France and Spain had joined in, fighting against the British not only in North America, but also in Europe, where they

¹⁸ Faruk Tabak, *The Waning of the Mediterranean, 1550-1870: A Geohistorical Approach* (Baltimore, M.D.: The Johns Hopkins University Press, 2008), 156.

¹⁹ Davis, *Aleppo and Devonshire Square*, 30-31.

²⁰ Davis, *Aleppo and Devonshire Square*, 27- 29.

²¹ Robert Ainslie to Lord Weymouth, 3 February Feb 1779, TNA SP 97/55, Wood, *Levant Company*, 147.

²² *Gibraltar, a Bulwark of Great Britain: In a Letter to a Member of Parliament* (London: J. Peele and N. Blandford, 1725).

²³ Francisco Maria Montero, *Historia de Gibraltar y de su campo* (Cádiz : Imprenta de la Revista Médica, 1860), 356.

hoped to regain their former Mediterranean possessions and even to invade England.²⁴ In 1781, the British Navy sent the Channel Fleet to resupply the garrison at Gibraltar, leaving the channel unprotected and clearing the way for Admiral De Grasse to cross the Atlantic and blockade Yorktown—effecting the British surrender that would be decisive in the loss of the American colonies. David Syrett argues that Gibraltar, “that pile of stone” at the mouth of the Mediterranean, “would twist and distort naval strategy to the very end of the American war.”²⁵ Menorca too had important symbolic significance for Britons at home. Although Britain managed to hold on to Gibraltar throughout the eighteenth century, it lost and regained Menorca twice over the course of the century.²⁶ When the French took the island during the Seven Years War, people all over Britain took to the streets, rioting and burning in effigy the Admiral who failed to protect the island. In fact the loss of Menorca led to domestic political upheaval, the fall of the Newcastle ministry and the rise of William Pitt—key developments in British politics and imperial expansion during the Seven Years’ War.²⁷

Although the Mediterranean trade began to decrease proportionally to the Atlantic of East Indian trades in the eighteenth century, the Mediterranean had by no means diminished in importance in the minds of eighteenth-century Britons. As Linda Colley reminds us, although the history of the region “is often left out of the history of English and British commercial and imperial endeavor,” with the occupation of Tangier, “it

²⁴ See Alfred Temple Patterson, *The Other Armada: The Franco-Spanish attempt to invade Britain in 1779* (Manchester: Manchester University Press, 1960).

²⁵ David Syrett, *The Royal Navy in European Waters During the American Revolutionary War* (Columbia SC: University of South Carolina Press, 1998), 69.

²⁶ Menorca was occupied by the French between 1756 and 1763, the Spanish between 1782 and 1798 before it was finally permanently ceded back to Spain in 1802.

²⁷ See Nicholas Rogers, *Crowds, Culture, and Politics in Georgian Britain* (Oxford University Press, 1998), Chapter 9 and Kathleen Wilson, *The Sense of the People: Politics, Culture, and Imperialism in England, 1715-1785* (Cambridge: Cambridge University Press, 1995).

witnessed both the most costly (and catastrophically unsuccessful) colonial settlement attempted by the English state in the seventeenth century.” The region also saw “the biggest concentration of British troops overseas before 1750.”²⁸ As the Levant trade waned, the Western Mediterranean became a center of British naval power, and the colonies of Gibraltar and Menorca gained importance as military strongholds in Europe.

Britain and North Africa

Isolated by the sea and hostile neighbors, how would these tiny military outposts survive or thrive? Although they were strategic bases in maritime Europe, the colonies would have to look south across the sea for supplies and support. North Africa would become vital, not only in supporting the British presence in the Mediterranean, but indeed in perpetuating the expanding definition of British subjecthood that developed there. In fact the North African “Barbary States” had long been important for British ascendancy in the Mediterranean region. According to M.S. Anderson, from the seventeenth century, Britain engaged in a “beggar-my-neighbour” policy—using the threat of North African privateers to gain the upper hand against European rivals in Mediterranean trade and naval power. By encouraging the enduring antagonism between Spain and the Barbary States “it was argued, this would expose a large part of Spanish seaborne trade to attack and seizure, restrict its growth, and hence limit the number of experienced sailors available for service in the Spanish navy.”²⁹ In the eighteenth century, the Barbary States were not only important in helping to increase the percentage of the Mediterranean trade

²⁸ Linda Colley, *Captives: Britain, Empire, and the World, 1600-1850* (New York: Anchor, 2004), 17.

²⁹ M. S. Anderson, “Great Britain and the Barbary States in the Eighteenth Century,” *Bulletin of the Institute of Historical Research* 29 (1956): 90-91.

carried in British ships and in reducing the maritime strength of Spain, but were also vital sources of supplies for the British garrisons.³⁰

Despite the political and economic significance of North Africa in the eighteenth century British Mediterranean, recent work on the relations between Britain and North Africa has largely focused on cultural exchange between Christianity and Islam in the sixteenth and seventeenth centuries.³¹ Nabil Matar argues that contact with North Africa caused Britons to reevaluate their convictions and beliefs and helped define English national identity. According to Matar, “what was unique about the British experience in Barbary was a dangerous encounter with the religious Other—the Muslim, who threatened Christian belief by enticing hundreds of men and women to Islam and making them renounce their allegiance to God and monarch.”³² However, he argues, the relationship between Britain and the “Barbary pirates” changed by the second half of the seventeenth century. According to Matar, even captives in this period “gave the impression in their published and unpublished accounts that they had lost the sense of anxiety of being captured.”³³

Indeed most studies of relations between Britain and North Africa argue that the threat of captivity, and therefore the importance of North Africa in British diplomatic and

³⁰ Anderson, “Great Britain and the Barbary States,” 93.

³¹ See for example, Richmond Barbour, *Before Orientalism: London's Theatre of the East, 1575-1626* (Cambridge: Cambridge University Press, 2003); Jonathan Burton, *Traffic and Turning: Islam and English drama, 1579-1624* (Newark: University of Delaware Press, 2005); Emily C. Bartels, *Speaking of the Moor From “Alcazar” to “Othello”* (Philadelphia: University of Pennsylvania Press, 2008); Nabil Matar, *Britain and Barbary 1589-1689* (Gainesville, Fla.: University Press of Florida, 2005). Nabil Matar, *Islam in Britain, 1558-1685* (Cambridge: Cambridge University Press, 1998); *Turks, Moors, and Englishmen in the Age of Discovery* (New York: Columbia University Press, 1999); *Europe Through Arab Eyes, 1578-1727* (New York: Columbia University Press, 2009); *British Captives from the Mediterranean to the Atlantic, 1563-1760* (Leiden: Brill, 2014); *Britain and Barbary*; Daniel Vitkus, *Turning Turk: English Theater and the Multicultural Mediterranean* (London: Palgrave Macmillan, 2002).

³² Matar, *Britain and Barbary*, 5.

³³ Matar, *Britain and Barbary*, 10.

economic history, waned after the mid-seventeenth century. Kenneth Andrews and David Hebb argue that captivity was no longer a major concern for English mariners after 1641.³⁴ For Matar the problems of captivity faded after the Civil Wars, when, he argues, the English “assumed a dominant role in the Mediterranean” and shifted from a trading to an imperial power.³⁵ Linda Colley extends the importance of North Africa chronologically, arguing that Britons were vulnerable to captivity throughout the first half of the eighteenth century.³⁶ However Colley asserts that after 1750, Britain’s relation to empire changed—becoming more self confident and assertive, especially in the Mediterranean.³⁷

However, even though the threat of captivity decreased for British subjects in the eighteenth century, this dissertation argues that it was the safety provided by Mediterranean passes and the need to provision the new Mediterranean colonies that made diplomatic relations with North Africa even more important in the eighteenth century. The garrisons needed provisions from allies in the Mediterranean, and North African states were good sources of grain and live cattle, which was easier and less expensive than importing salt beef from Ireland. If British subjects were protected from attack by North African privateers, the British would need to expand their definition of British subjecthood to encompass the locals who sailed the ships that would provision the garrisons. Diplomatic relations with North Africa became crucial to the survival of the colonies and created an impetus to expand the definition of British subjecthood.

³⁴ David Delison Hebb, *Piracy and the English Government, 1616-1642* (Aldershot: Scholar Press, 1994) and Kenneth R. Andrews, *Ships, Money and Politics: Seafaring and Naval Enterprise in the Reign of Charles I* (Cambridge: Cambridge University Press, 1991).

³⁵ Matar, *Britain and Barbary*, 133, 167.

³⁶ See Colley, *Captives* and *The Ordeal of Elizabeth Marsh: A Woman in World History* (New York: Anchor Books, 2004).

³⁷ Colley, *Captives*, 17.

Documentary Subjecthood

Although scholarly attention to the eighteenth-century British Mediterranean is only starting to gain momentum,³⁸ Alison Games' 2008 book "Web of Empire" posits that English experiences in the Mediterranean a century earlier provided the training ground for Britain's global empire. "It was in the Mediterranean," writes Games, "that the English acquired their first significant experience with large-scale, long-distance trade in an alien and inhospitable environment. The crucial skills learned there anchored and shaped subsequent English enterprises around the world."³⁹ Games portrays the seventeenth-century English Mediterranean experience as one of vulnerability, accommodation, and dissimulation. According to Games, in order to "weather the hazards of the Mediterranean," English travelers and traders had to "deny or subvert their religious or national affiliations."⁴⁰ To what extent did British experiences in the Mediterranean change in the eighteenth century? Games posits that by the end of the seventeenth century, the spirit of adaptability and accommodation had "waned and was

³⁸ Linda Colley's, *Captives* was one of the first recent studies to call attention to the importance of the Mediterranean to the eighteenth century British Empire. More recently several dissertations and articles have tackled aspects of the subject. See Tristan Stein, "The Mediterranean in the English Empire of Trade, 1660-1748" (PhD diss., Harvard University 2013); Hannah Weiss Muller, "The Garrison Revisited: Gibraltar in the Eighteenth Century," *The Journal of Imperial and Commonwealth History* 41 (2013): 353–76; Hannah Weiss Muller, "An Empire of Subjects: Unities and Disunities in the British Empire, 1760-1790." (PhD diss., Princeton University, 2010); Michael Talbot, "Petitions of the Suppliant Ambassador: British Commercial Representations to the Ottoman State in the Eighteenth Century," *Osmanlı Araştırmaları: The Journal of Ottoman Studies* 46 (2015): 163–91; Michael Talbot, "Ottoman Seas and British Privateers: Defining Maritime Territoriality in the Eighteenth-Century Levant," in Pascal W. Firges, Tobias P. Graf, Christian Roth, and Gülay Tulasoğlu eds. *Well-Connected Domains: Towards an Entangled Ottoman History* (Leiden and Boston: Brill, 2014), 54–70; Michael Talbot, "British Diplomacy in the Ottoman Empire during the Long Eighteenth Century," (PhD diss., SOAS, University of London, 2013); Basil C. Gounaris, "Unwanted Heroes?: British Privateering, Commerce, and Diplomacy in the Mid-Eighteenth-Century Eastern Mediterranean," *Mediterranean Studies* 22 (2014): 135–65; Catherine M. Styer, "Barbary Pirates, British Slaves, and the Early Modern Atlantic World, 1570-1800" (PhD diss., University of Pennsylvania, 2011).

³⁹ Alison Games, *The Web of Empire: English Cosmopolitans in an Age of Expansion, 1560-1660* (Oxford: Oxford University Press, 2008), 47.

⁴⁰ Games, *Web of Empire*, 74.

replaced and eclipsed by the state's commitment to centralized authority and to coercive strategies."⁴¹

I argue that in fact adaptability and accommodation remained a central experience of British subjects in the Mediterranean, even as Britain's centralized and coercive power grew. The British subjects practicing this adaptability, however, were an altogether different cohort. With the acquisition of British colonies in the Mediterranean, a whole host of people who had never even visited the British Isles became legally or practically "British subjects." By the middle of the eighteenth century, British subjects in the Mediterranean were no longer distinguishable by culture, language, or even geographic origin. As the British extended the rights of subjecthood to a wider array of people, documentation rather than dissimulation became a way for Englishmen, Genoese, Gibraltarians, and Spaniards alike to navigate a world in which Britain was no longer weak, but instead might prove either a powerful ally or a dangerous foe. This subjecthood could be something they could don or shed just as the Britons of the seventeenth century had donned and shed religious or cultural identifications. Subverting national affiliations was no longer a matter of dissimulating language, religion, or culture, but was instead a matter of bureaucratic savvy and "documentary identity." Gibraltarians might obtain Mediterranean passes to protect the ships they used to provision the garrison, but they might instead make a profit by selling their valuable passes to Genoese captains. Menorcans might acquire British letters of marque that authorized them to attack French merchants shipping, but they might also use these documents aboard Spanish or Tuscan-

⁴¹Games, *Web of Empire*, 14.

owned ships. Inhabitants might use or subvert the practice of “British subjecthood” to navigate a dangerous sea of warring empires.

By the eighteenth century, England had already tried, and failed, to cultivate a garrison and colony at Tangier to protect its Mediterranean trade. The acquisition of Gibraltar and Menorca in 1713 finally placed Britain squarely in the Mediterranean as an imperial power. The Treaty of Utrecht officially transferred Gibraltar and Menorca from Spain to Britain, but it also imposed restrictions on British sovereignty. It limited trade with Spain, required Britain to protect the rights of Catholic inhabitants, and barred “Jews” and “Moors” from living in Gibraltar. Because the new territories attracted no British colonists and but few British merchants, the garrison would come to rely increasingly on supplies from North Africa, and needed Jewish and Muslim traders to help develop trade networks with North African cities and to oil the sometimes sticky wheels of diplomacy with North African leaders. British authorities in Gibraltar would gradually begin to ignore this restriction, although not without incurring significant ire from Spain.

Good diplomatic relations with North Africa were also vital to protecting British shipping from private North African warships—the so-called “Barbary coast pirates.” These “pirates” were in fact privateers commissioned by their governments to attack Christian shipping. They took ships and goods and sold sailors and passengers into slavery or held them for ransom. By the mid-seventeenth century, Britain had begun to make treaties with these states to protect English ships and had developed a system whereby “Mediterranean Passes” could be presented to the captain of a “Barbary cruiser” that proved the ship was protected by the English Crown. These passes might protect a

ship from attack, but treaties required that the captain and two thirds of the sailors must be “British subjects.” With so few “native-born subjects” in the new colonies, British authorities would have to negotiate protection for the diverse Mediterranean peoples who inhabited Gibraltar and Menorca and helped provision the garrisons and civilian populations. Nicholas Harding argues that in the eighteenth century, the flag and the Mediterranean Pass were two “critical monikers of Britishness.”⁴² However, over the course of the eighteenth century, the British government expanded the categories of people who could be considered British subjects to include an ever-widening slice of the Mediterranean population. By 1760, a treaty with Morocco offered these protections to include “*natives of any other country*” who lived in Gibraltar or Menorca, instructing that these people should be “*considered and esteemed as English natural subjects.*”⁴³ The British Mediterranean became a place with limited British sovereignty, and yet a seemingly unlimited definition of British subjecthood—subjecthood that could only be established and proven through documents like Mediterranean passes.

Another example of this “documentary subjecthood” can be seen in the letters of marque issued to private warships. In order to protect its Mediterranean possessions, augment the Navy’s power, and damage enemy trade, the crown issued letters of marque to private warships that allowed them to plunder enemy ships. In the multicultural environment of the Mediterranean, however, defining a ship’s national status could be a tricky business. Although officially, privateers had to be captained by “His Majesty’s natural born Subjects or Foreign Protestants made Denizens” and crews were required to

⁴² Nicholas B. Harding, “North African Piracy, the Hanoverian Carrying Trade, and the British State, 1728-1828,” *The Historical Journal* 43, no. 1 (2000), 32.

⁴³ Emphasis mine. Treaty between Great Britain and Morocco, 28 July 1760 in Lewis Hertslet, ed. *Hertslet’s Commercial Treaties: A Collection of Treaties and Conventions, Between Great Britain and Foreign Powers... Vol. I.* (London: H.M.S.O., 1905), 100.

be two-thirds British, many Menorcans and Gibraltarians took advantage of the broad Mediterranean application of British subjecthood to obtain commissions for private war ships.⁴⁴ Even when a captain was undeniably a British subject, the rest of the crew often hailed from across the Mediterranean. Although the vicissitudes of war could cripple trade for many communities, local inhabitants took advantage of the unclear and unevenly enforced rules about subjecthood to privateer for their own financial gain.

Because British authority in the eighteenth-century Mediterranean was limited by treaties, supported by only a few native-born Britons, and deeply dependent on good diplomatic relations with North Africa, the British bolstered their power by extending the practical rights of British subjecthood to a diverse array of people. With a series of laws, decrees, and treaties, the British extended many protections of British subjecthood not only to native-born Menorcans or Gibraltarians, but in fact anyone who could help protect and sustain the colonies.

“Rule, Britannia! Rule the waves”: The First and Second British Empire?

The newest scholarship on the eighteenth-century British Mediterranean has emphasized the ways in which the nature and structure of the empire in that sea differed from the broader pattern of British imperial expansion. In his 2013 dissertation, Tristan Stein argues that Britain focused its power in the Mediterranean on asserting control over “oceanic space and networks of trade,” rather than over territory.⁴⁵ Stein contends that England’s role in the Mediterranean “diverged from England’s wider pattern of imperial expansion” because sovereignty there was limited by powers such as the Ottoman

⁴⁴ Copy of Order in Council, 14 June 1722, Gibraltar Government Archives (Hereafter GGA) Admiralty Book No. 1.

⁴⁵ Stein, “The Mediterranean,” iv.

Empire, the North African regencies, and the Italian states.⁴⁶ This divergence also has implications for the traditional historiographical periodization of the “first” and “second” British Empire. By examining subjecthood in this “oceanic space of networks and trade,” I argue that British experience in the eighteenth-century Mediterranean demonstrates that Britain contended with a diverse set of subjects long before it gained new subjects in the Americas or India in the second half of the eighteenth century. This occurred, however, not within the context of territorial conquest, but instead in the context of limited sovereignty, and within a fluid maritime environment.

Historians have long claimed that the “first” British Empire was an empire of commerce and the seas largely based in the Atlantic, while the second British Empire was one of territorial conquest based in Asia.⁴⁷ By this definition, the British Mediterranean might lie quite comfortably within the theoretical sphere of the “first” British Empire. However, this traditional periodization has increasingly become aligned with a major shift in what PJ Marshall calls “the official mind” of the British Empire. Marshall and other have linked the shift from the first to the second British Empire to the changes in the composition of Britain’s imperial subjects after the territorial gains of the Seven Years’ War, the loss of the American colonies, and the “swing to the east.”⁴⁸ David Armitage has argued that in the 1730s, the perception developed that Britain and the

⁴⁶ Stein, “The Mediterranean,” 2.

⁴⁷ By 1929, when the first volume of the *Cambridge History of the British Empire* was entitled *The Old Empire from the Beginnings to 1783*. By 1929 the tradition that the history of the British Empire could be divided into phases was already firmly established. See P.J. Marshall, “The First British Empire,” and C.A. Bayly, “The Second British Empire,” in Robin Winks ed., *The Oxford History of the British Empire: Volume V: Historiography* (Oxford: Oxford University Press, USA, 2001).

⁴⁸ Vincent Todd Harlow, *The Founding of the Second British Empire, 1763-1793* 2 vols. (London: Longmans, 1964), 786.

British Empire were “Protestant, commercial, maritime and free.”⁴⁹ This view arose as a reaction to the resistance of Walpole’s government to engaging in commercial war with Spain. Walpole’s opponents in the 1730s argued that he did not ensure the “liberty” of the colonies because his mercantilist policies subordinated colonial trade to the benefit of the metropolis. Armitage argues that this imperial ideology was crucial to the creation of a more unified British state and a bond with white settler colonies.⁵⁰

During the “first” British Empire, as Marshall argues, Britain’s naval supremacy was seen to support world-wide trade and “colonies of free, Protestant British citizens enjoying the rights of Englishmen abroad.” In theory, “the conquest of territory and the subjection of alien peoples had no part in any British empire.”⁵¹ The Seven Years’ War with its vast territorial gains that brought a host of racially and religiously diverse new subjects fundamentally changed this conception of the empire. “The British now ruled great extents of territory,” writes Marshall, “with subject populations of Native Americans, French Canadians, and above all Indians. None of these were Protestant, British or free, according to British notions of freedom. New systems of authoritarian government had to be devised for them.”⁵²

Further, Christopher Brown has argued that with the loss of the American colonies, Britain emphasized the rise of the empire in the east, and developed an “emerging idea of trusteeship” whereby imperial authority would be increasingly

⁴⁹ David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000), 173.

⁵⁰ Armitage, *Ideological Origins*, 176.

⁵¹ P. J. Marshall, *The Making and Unmaking of Empires: Britain, India, and America c.1750-1783* (Oxford: Oxford University Press, 2007), 6.

⁵² Marshall, *Making and Unmaking of Empires*, 7.

centralized in the metropole.⁵³ Kathleen Wilson argues that “in the eyes of increasing numbers of English observers, the empire of the seas, once idealized as the domain of free white British peoples, had become the imperium of palpably alien colonial subjects.”⁵⁴ In this new framing, the British Empire was, according to Wilson, “comprised not just of free British subjects but of large numbers of alien people, incorporated into the empire by conquest, not consent.”⁵⁵

The British Mediterranean, however, was neither the domain of “free, white, Protestant Britons,” nor was it a territory populated by “alien people incorporated into the empire by conquest.” The realities of British subjecthood in the Mediterranean confounds and resists such periodization. Catholic Menorcans became British subjects fifty years before the victories and territorial gains of the Seven Years’ War. Long before the acquisition of Bengal, Britain affirmed the subjecthood of Catholics, Jews, and Muslims, on a tiny rock perched between the Mediterranean and Atlantic oceans. Conceptions of the British Empire were not the be-all-end-all of imperial policy. The example of the Mediterranean shows the extent to which, even in the early eighteenth century, pragmatism and expedience were more important to British imperial policy than ideology. And Britain had to contend with a racially, culturally, and religiously diverse population of subjects long before the traditional shift between the first “maritime” and second “territorial” empire took place.

⁵³ Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (The University of North Carolina Press, 2006), 205.

⁵⁴ Kathleen Wilson, *The Island Race: Englishness, Empire and Gender in the Eighteenth Century* (London: Routledge, 2003), 11.

⁵⁵ Wilson, *Island Race*, 51.

Subjecthood in Law, Treaty, and Practice

Legally speaking, British subjects could be born or made in three ways: *Jus Soli*—by birth on the soil of the Monarch’s realm, *Jus Sanguinis*—by birth to British parents, and through denization—by which foreign subjects could gain some of the privileges of subjecthood by buying a letter of patent and swearing allegiance to the crown.⁵⁶ By the beginning of the eighteenth century, laws were in place by which foreign Protestant could be naturalized as British subjects.⁵⁷

The legal issue of who might be considered an English subject confronted an important test after James Stuart of Scotland acceded to the English throne. “Calvin’s case,” brought before the King’s Bench in 1608, echoed conflicts that would develop over the next two centuries, as the crown gained sovereignty over territories that would stretch around the globe. The question presented in “Calvin’s Case” was whether James Stuart’s accession to the English throne would make those born thereafter in Scotland, English subjects as well. According to contemporary English common law, “birth within the allegiance of the king” would make one a subject of the king.⁵⁸ Because he had been born after the union of the crowns of Scotland and England, the court ruled he had been born within the territory of the sovereign’s realm, and could therefore be considered an English subject.

Several historians have argued that the ruling of the Chief Justice, Sir Edward Coke, was based on a sense that England needed a new definition of subjecthood that could extend allegiance beyond the kingdom. Daniel Hulsebosch argues that in fact Coke

⁵⁶ Daniel Statt, “The Birthright of an Englishman: The Practice of Naturalization and Denization of Immigrants under the Later Stuarts and Early Hanoverians,” *Proceedings of the Huguenot Society of Great Britain and Ireland* 25 (1989): 61-74.

⁵⁷ Foreign Protestants Naturalization Act 1708. See H. S. Q. Henriques, *The Law of Aliens and Naturalization: Including the Text of the Aliens Act, 1905* (London: Butterworth & Co., 1906), 168.

⁵⁸ Keechang Kim “Calvin’s Case and the Law of Alien Status,” *Journal of Legal History* 17 (1996), 156.

was “on the verge of recognizing a new kind of imperial subjectship.”⁵⁹ Keechang Kim argues that a new generation of lawyers such as Francis Bacon believed that it was necessary to go even further in the application of subjecthood, so as to extend “the king's power, command and protection” outside of England. Bacon argued that the fact that English law could “open her lap to receive in people to be naturalized” showed “the wisdom and excellent composition” of the law “of a warlike and magnanimous nation fit for empire.”⁶⁰ Lawyers such as Bacon were, according to Kim, “advocating James I's imperial claim that all the peoples under his subjection in or out of England—should be united in one political and legal unit.”⁶¹

The ruling in “Calvin's case” did not, however, clearly unite the sovereign's realm into “one political and legal unit.” Coke and the judges ruled that subjects who resided outside of England had access to the English common law and could sue in the English courts, but only for matters pertaining to England, and not to those pertaining to other royal territories. Despite this, Coke hoped that “the King's protection and power of command, as well without the realm, as within, that his Subjects in all places may be protected from violence, and that justice may equally be administered to all his Subjects.”⁶² Indeed, Coke was ambiguous about the extent to which English liberties

⁵⁹ Daniel J. Hulsebosch, “The Ancient Constitution and the Expanding Empire: Sir Edward Coke's British Jurisprudence,” *Law and History Review* 21 (2003): 466.

⁶⁰ “The Argument of Sir Francis Bacon, Knight, His Majesty's Solicitor General in the case of the Post-nati of Scotland,” in Francis Bacon, *The Works of Francis Bacon, Baron of Verulam, Viscount St. Alban, and Lord High Chancellor of England: Law Tracts. Maxims of the Law* (London: C. and J. Rivington, 1826), 346.

⁶¹ Keechang Kim, “Calvin's Case and the Law of Alien Status,” *Journal of Legal History* 17 (1996), 158.

⁶² Sir Edward Coke, John Henry Thomas, and John Farquhar Fraser, *The Reports of Sir Edward Coke Vol. IV* (London: J. Butterworth and Son, 1826), 14.

traveled with subjects, although he did suggest that *some* English liberties should follow Britons outside England and into the king's other territories.⁶³

As the empire grew, so to did the concept of subjecthood, which expanded well beyond narrow or contested legal definitions. Hannah Weiss Muller argues that the language of subjecthood became an “organizing principle of the mid-eighteenth century British Empire” and “surfaced in treaties, parliamentary papers, pamphlets, newspapers, sermons, and official correspondence, just as it did in countless petitions, or memorials.”⁶⁴ According to Muller, in the 1760s and 1770s, French Catholics in Grenada and Quebec were active in demanding their right and privileges as subjects: “the bonds between subject and sovereign, the ones articulated and performed each time subjects approached their monarch or his representatives, operated at a symbolic and functional level to integrate an empire that had become increasingly diverse by the 1760s.”⁶⁵

The subjecthood of Catholics, however, be they in Grenada, Quebec, Menorca, or Gibraltar, was not an easy pill to swallow for fiercely Protestant Britain. Catholics were often seen as having “compromised allegiance”—serving not only the king, but the pope as well.⁶⁶ Despite this, in the Mediterranean colonies, the British were compelled by the Treaty of Utrecht to protect the Catholic religion, and despite suspicions around Catholic loyalty, the imperial authorities in Gibraltar, Menorca, and London extended and protected the rights of subjecthood to Catholics in their Mediterranean colonies.

⁶³ Daniel J. Hulsebosch, “The Ancient Constitution and the Expanding Empire: Sir Edward Coke’s British Jurisprudence,” *Law and History Review* 21 (2003): 440.

⁶⁴ Hannah Weiss Muller, “Bonds of Belonging: Subjecthood and the British Empire,” *Journal of British Studies* 53 (2014): 29-30.

⁶⁵ Muller, “Bonds of Belonging,” 29.

⁶⁶ See Caitlin Anderson, “Old Subjects, New Subjects, and Non-subjects: Silences and Subjecthood,” in Jane Rendall, Nicholas Guyatt and Richard Bessel, *War, Empire, and Slavery, 1770–1830*, (New York, 2010), 204.

Another group viewed with wary suspicion throughout the British Empire were “indigenous peoples.” The question of whether indigenous peoples were considered or considered themselves “subjects,” “allies,” or “dependent nations” is a fraught and complicated one.⁶⁷ There is evidence, however, that as with Catholics, British authorities extended the rights of subjecthood to indigenous peoples in several cases. Jenny Hale Pulsipher, for example, argues that New England colonial officials in the seventeenth century considered Native Americans to be subjects of the Crown.⁶⁸ In 1764 officials in Whitehall proposed a large scale, but never-implemented plan to make Native Americans officially subjects of Britain.⁶⁹ Several historians have demonstrated that many indigenous people themselves argued for their subjecthood and used English law to seek protections and privileges, and further their interests.⁷⁰ Cockacoeske, Queen of the Pamunkey tribe, for example, established herself as a vassal of the English king and appealed for English justice to resolve disputes among Indians.⁷¹

It is clear that by the mid-eighteenth century, subjecthood had become an important rhetorical and practical tool for diverse people who resided on land claimed by

⁶⁷ See for example, Kunal M. Parker, *Making Foreigners: Immigration and Citizenship Law in America, 1600–2000* (New York: Cambridge University Press, 2015), Chapter 2; Julie Evans, Patricia Grimshaw, and David Phillips eds., *Equal Subjects, Unequal Rights: Indigenous People in British Settler Colonies, 1830–1910* (New York: Oxford University Press, 2013).

⁶⁸ Jenny Hale Pulsipher, *Subject unto the Same King: Indians, English, and the Contest for Authority in Colonial New England* (Philadelphia, PA: University of Pennsylvania Press, 2005).

⁶⁹ Daniel K. Richter, “Chapter 11: Native Americans, the Plan of 1764, and a British Empire that Never Was,” Robert Olwell and Alan Tully, eds., *Cultures and Identities in Colonial British America* (Baltimore, MD: The Johns Hopkins University Press, 2006).

⁷⁰ See Jenny Hale Pulsipher, *Subjects unto the Same King: Indians, English, and the Contest for Authority in Colonial New England* (Philadelphia: University of Pennsylvania Press, 2005); Ann Curthoys and Jessie Mitchell, “Bring This Paper to the Good Governor: Aboriginal Petitioning in Britain’s Australian Colonies,” in Saliha Belmessous ed., *Native Claims: Indigenous Law against Empire, 1500–1920* (New York: Oxford University Press, 2011), 182–203; Craig Bryan Yirush, “Claiming the New World: Empire, Law, and Indigenous Rights in the Mohegan Case, 1704–1743,” *Law and History Review* 29 (2011): 333–73.

⁷¹ Martha W. McCartney, “Cockacoeske, Queen of Pamunkey: Diplomat and Suzeraine,” in Gregory A. Waselkov, Peter H. Wood, and Tom Hatley eds., *Powhatan’s Mantle: Indians in the Colonial Southeast* (Lincoln, NE: University of Nebraska Press, 2006), 243–266.

the British crown. In the Mediterranean, however, subject status might extend to diverse people within a maritime space over which Britain did not exercise sovereignty. While territorial sovereignty might allow those born within the king's realm to claim the rights of British subjects, the limited sovereignty Britain had within the Mediterranean sea made documents proving subjecthood important tools that would simultaneously extend British power through the king's subjects, and allow individuals to use that documentary subjecthood for their own protection and wellbeing.

“New Imperial History,” Identity and Subjecthood

In 2004 Kathleen Wilson issued a call for “a new imperial history.” It would explore “questions about identity and difference in imperial settings” through a cultural lens.⁷² It would also strive to entangle the local and the global by examining the relationship between what was going on “out there” and “in here”—the empire and the metropole.⁷³ In many ways, this call for a “new imperial history” was a promotion and expansion of approaches to the British Empire that had been gathering steam since the 1990s, which was in turn a product of the “cultural turn” of the 1970s and 1980s. Less interested in purely economic or political approaches to understanding empire, it was also inspired by literary and cultural studies, as well as anthropology and postcolonial theory that attempted to let “the subaltern speak.”⁷⁴ Wilson's edited collection, *A New Imperial History: Culture, Identity and Modernity in Britain and the Empire 1660-1840*, focused on culture, race, gender, and identity. These “new imperial histories” engaged with issues

⁷² Kathleen Wilson, ed. *A New Imperial History: Culture, Identity, and Modernity in Britain and the Empire, 1660-1840* (Cambridge, UK: Cambridge University Press, 2004), 2.

⁷³ Wilson, *New Imperial*, 13.

⁷⁴ Gayatri Chakravorty Spivak, “Can the Subaltern Speak?” in Cary Nelson and Lawrence Grossberg, *Marxism and the Interpretation of Culture* (Urbana and Chicago: University of Illinois Press, 1988), 271-313, based on a 1983 lecture entitled “Power, Desire, Interest.”

such as the foundation of national identity in an imperial context and the ways in which religion, science, and gender affected and were affected by structures of empire.⁷⁵

The issue of empire and identity raised by Wilson finds its literal and figurative lineage in Linda Colley's highly influential 1994 work *Britons: Forging a Nation*, one of the first studies of the British Empire to focus on culture and identity.⁷⁶ Colley argued that during the eighteenth century, Britons developed a cohesive sense of national identity through war and imperial expansion.⁷⁷

Five years after Colley's *Britons*, Martin Daunton and Rick Halpern remarked on the way that "British history itself has recently been transformed by a new emphasis on the 'forging' of identities," pointing out that the word itself "captures the ambivalence of the process as both creation and counterfeiting."⁷⁸ As the study of empire and identity has taken shape, many historians have been careful to acknowledge and explore its mutable and sometimes slippery nature. In examining the identities of Africans in the eighteenth century African diaspora, James Sweet argues that "sociopolitical exigencies shaped the ways in which Africans deployed identity."⁷⁹ According to Sweet, "The savviest and most well-traveled Africans took careful measure of their environments, adroitly crafting group identities that allowed them to survive, resist, and in some instances thrive in the Atlantic world."⁸⁰ Identity in this conception was not only forged and mutable, but also potentially instrumental.

⁷⁵ John Gascoigne, "The Expanding Historiography of British Imperialism," *The Historical Journal* 49 (2006): 577–92.

⁷⁶ Linda Colley, *Britons: Forging the Nation 1707-1837* (New Haven, Conn: Yale University Press, 1994).

⁷⁷ Colley, *Britons*.

⁷⁸ Martin Daunton and Rick Halpern, *Empire and Others: British Encounters with Indigenous Peoples, 1600-1850* (Philadelphia: University of Pennsylvania Press, 1999), 3.

⁷⁹ James H. Sweet, "Mistaken Identities? Olaudah Equiano, Domingos Álvares, and the Methodological Challenges of Studying the African Diaspora," *The American Historical Review* 114 (2009): 284.

⁸⁰ Sweet "Mistaken Identities," 284.

Some scholars, however, have rejected the term “identity” as a meaningful category of analysis altogether. In 2000, Frederick Cooper and Rogers Brubaker argued that in the attempt to avoid reifying essentialism, scholars have insisted that “identities are constructed, fluid, and multiple.” Their concern was that as these identities proliferated, “the term loses its analytical purchase.” “If identity is everywhere,” they argued “it is nowhere.”⁸¹ Instead of the term “identity” they called for scholars to separate the many meanings of identity into distinct categories of analysis. They proposed terms such as “identification,”—how one identifies oneself and how one is identified by others; “self-understanding”—the social processes through which persons understand and locate themselves, and other categories such as “commonality, connectedness, and groupness.”⁸²

Uncovering the identities of the past is clearly a tricky and sometimes fickle undertaking. However identity continues to be an important element in discussions of how culture affected empire and empire affected culture. While attentive to the potential power of a cultural lens, this dissertation hopes to take a slightly different perspective on the experience of empire. It does not reject identity as a meaningful category of analysis. Rather, because it relies largely on government documents and correspondence, it does not substantially touch on the national or cultural sentiments of peoples who encountered the British Empire. Indeed the eighteenth-century British Mediterranean is a fertile arena to study British subjecthood uncoupled from identity, because so many British subjects were uninterested in cultivating “Britishness” or in the complicated cultural matrices of British identity. In an arena where there were so few “native-born Britons,” and where

⁸¹ Rogers Brubaker and Frederick Cooper, “Beyond ‘Identity,’” *Theory and Society* 29 (2000): 1.

⁸² Cooper and Brubaker, “Beyond Identity,” 20.

British sovereignty was so limited, ideas of “Britishness” or “national identity” were largely irrelevant to many of those who would employ or subvert the rights and protections of British subjecthood. Through examining Admiralty, Vice-Admiralty, and Privy Council cases, and by looking for the stories of Mediterranean inhabitants in the letters of British officials, I explore the practical ways in which individuals confronted, navigated, and subverted British power. Identity and subjecthood are connected, but not, as this dissertation will demonstrate, inextricably intertwined.

Without understanding the nature and structure of British power in the Mediterranean it is impossible to understand the lives and experiences of those who navigated that power. And conversely, without understanding the actions of individuals in the Mediterranean, it is impossible to understand the nature and structure of British power. This dissertation is neither a “new imperial history,” nor is it a traditional political history of empire. Instead, it explores the entangled political, social, and cultural currents of government policy and individual experience through the lens of subjecthood. Subjecthood was neither a stable political classification nor a conceptual cultural construction. Instead subjecthood was a negotiable and mutable category connected to both international diplomacy and individual rights.

Global, Maritime, Oceanic and Imperial History

New, more broad ranging approaches to empire have also given rise to an increasing interest in global, maritime, and oceanic history. In the past decade, works by Linda Colley, Miles Ogborn, Alison Games, and other early modern British historians have begun to focus on the global networks built by individuals who not only traveled

within the “empire,” but were also connected the wider world.⁸³ This push toward more expansive and “fluid” histories is likewise evident in the popularity of the historical study of the sea as a zone of contact.⁸⁴ One good example is the 2006 *AHR Forum: Oceans of History* which brought together scholars to examine the historiography of the Atlantic, Pacific and Mediterranean.⁸⁵

Maritime regions are intrinsically flexible, and oceans connect specific regions to the wider globe. The networks that linked the coasts of individual seas also flowed into and out of other oceans and to other shores. As Horden and Purcell put it, the seas of the world “join up to constitute a changing global history.”⁸⁶ Scholars often characterize sea space as contested; communities within and around the sea are often described as “without a center.”⁸⁷ Further, these oceanic regions have nebulous and shifting borders—Fernand Braudel described the ongoing ways in which the communities of the Mediterranean expanded and contracted to embrace adjacent zones.⁸⁸ Histories of the sea upend the concept of center and periphery by treating political margins as regional hubs.

Atlantic history, for example, treats that ocean as a “regional system,” and has opened new and innovative ways to explore cross-cultural contact, migration, diasporas, colonialism, and race relations. The focus on the Atlantic world within the rise of the

⁸³ Miles Ogborn, *Global Lives: Britain and the World, 1550-1800* (Cambridge: Cambridge University Press, 2008), 330. Linda Colley, *The Ordeal of Elizabeth Marsh: A Woman in World History* (New York: Anchor Books, 2004); Games, *Web of Empire*.

⁸⁴ For example, the American Historical Association Conference 2010 theme was “Oceans, Islands, Continents.”

⁸⁵ Kären Wigen, “Introduction,” *The American Historical Review* 111 (2006): 717–21; Peregrine Horden, and Nicholas Purcell, “The Mediterranean and ‘the New Thalassology,’” *The American Historical Review* 111, no. 3 (2006): 722–40; Alison Games, “Atlantic History: Definitions, Challenges, and Opportunities,” *The American Historical Review* 111, no. 3 (2006): 741–57; Matt K. Matsuda, “The Pacific,” *The American Historical Review* 111, no. 3 (2006): 758–80.

⁸⁶ Horden and Purcell, “New Thalassology,” 739.

⁸⁷ Horden and Purcell, “New Thalassology”; Matsuda, “The Pacific.”

⁸⁸ Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II* (London: Collins, 1972), 170; Chapter 3.

British Empire, however, has often obscured the importance of the Mediterranean as a pivotal site of competing states, an epicenter of commerce, and a critical area of imperial rivalry at a moment when the European empires were gathering strength. Although the calls for early modern historians to expand or even “explode” the confines of the Atlantic have been many, historians of the British empire have largely missed the Mediterranean in the race toward a “global perspective.”⁸⁹

Fernand Braudel’s 1949 magnum opus *The Mediterranean* took a geographically and temporally panoramic view of the area, treating the sea as a space of cultural intersection. According to Braudel, and indeed to most historians of the Mediterranean since, the sea constituted a regional system during its “golden age,” but that system began to break down in the sixteenth century with the rise of the Atlantic.⁹⁰ The Mediterranean as a “regional system,” especially in the eighteenth century is surprisingly understudied. Even new broadly geohistorical studies such as David Abulafia’s *The Mediterranean in History*, uphold the idea that the Mediterranean’s golden age was firmly over by the seventeenth century. Faruk Tabak, author of *The Waning Mediterranean* argues that from the fourteenth to the sixteenth century the Mediterranean was a “world unto itself, a global economy.”⁹¹ He contends that most historians think that the shift in the spice trade from the Levant to ports in the Atlantic and North Sea signaled the end of the Mediterranean heyday, and that competition from the Atlantic as well as the decline of

⁸⁹ Ian K. Steele, “Exploding Colonial American History: Amerindian, Atlantic, and Global Perspectives,” *Reviews in American History* 26, no. 1 (1988): 83; See also Alison Games, “Beyond the Atlantic: English Globetrotters and Transoceanic Connections,” and Peter A. Coclanis, “Atlantic World or Atlantic/World?” *William and Mary Quarterly* 63, no. 4 (2006): 675–92, 725–42).

⁹⁰ Braudel, *The Mediterranean*, 225–230.

⁹¹ David Abulafia, *The Mediterranean in History* (Los Angeles: J. Paul Getty Museum, 2003); Faruk Tabak, *The Waning of the Mediterranean, 1550–1870: A Geohistorical Approach* (Baltimore MD: The Johns Hopkins University Press, 2008), 1.

trading centers such as Genoa and Venice signaled the end of an age in which the Mediterranean could be thought of as a truly coherent global system. Despite the apparent fracturing of Mediterranean unity, Tabak eschews the notion that such a “waning” means that the region no longer holds merit in coherent historical study. According to Tabak, “The reflexive assumption in the region’s historiography” is that with “the erosion of the power of the city-states and the loss of the spice trade, the Mediterranean unavoidably lost its economic coherence.” This assumption, Tabak argues, “tends to confine holistic analyses of the basin exclusively to its heyday.” While Tabak agrees that the region did indeed fracture, he argues that the task of recovering the centuries from obscurity should start by restoring the unity of the Mediterranean.⁹²

The intertwining of maritime, global, and imperial histories has also contributed to widening of what historians consider “Empire.” As David Armitage points out, while imperial history shows how “dominant elites have exerted central control over territory, population and resources,” maritime history has tended to describe “connections and circulations outside centers of control and usually beyond the limits set by particular national histories.”⁹³ Empires traditionally operate outward from sovereign cores surrounded by moving frontiers while oceans are “polycentric, without advancing imperial borderlands but with a multiplicity of zones where populations collided and mingled.”⁹⁴ This dissertation seeks to bring together these two separate but interconnected approaches to the global past—maritime history and imperial history—and spans these two somewhat contradictory but mutually informing approaches. By

⁹² Tabak, *Waning of the Mediterranean*, 10.

⁹³ David Armitage, “The Elephant and the Whale: Empires of Land and Sea,” *Journal for Maritime Research* 9 (2007): 23-36, 26.

⁹⁴ Armitage, “The Elephant and the Whale,” 26.

combining the imperial and the oceanic model we can see both the far-reaching range of state power (in the form of diplomacy, colonial administration, and imperial warfare) as well as the flexibility of individual allegiances, contacts, and experiences. We see both a world of warring empires and state power radiating from an imperial center (or perhaps centers), but also of literal and figurative fluidity.

ORGANIZATION

This project approaches issues of subjecthood and sovereignty in the British Mediterranean in five chapters. Chapter One explores the shifting ways Britons in the Mediterranean performed allegiance. Alison Games claims that in the sixteenth and seventeenth centuries, the English learned from their experiences in the diverse and fluid Mediterranean an adaptability of identity and allegiance she calls “cosmopolitanism”—a technique that would help them survive in a world in which the English state was weak.⁹⁵ What would happen to this adaptability with the rapid eighteenth-century development of what John Brewer has called the “fiscal military state” and in the face of a rapidly expanding empire?⁹⁶ By finding the stories of individual sailors in Admiralty records, diplomatic correspondence, and in their own captivity narratives, Chapter One compares how mariners in the seventeenth- and eighteenth-century Mediterranean performed their allegiance in dangerous situations. I find that while flexibility continued to prevail into the eighteenth century, the nature of that flexibility shifted. As Britain’s military might and empire grew, language, culture, or dress were rapidly becoming unnecessary for the performance of allegiance. As the British state and colonial officials offered the rights of

⁹⁵ Games, *Web of Empire*.

⁹⁶ John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (Boston: Harvard University Press, 1990)

subjecthood to a wide and diverse array of people, British *subjecthood* rather than cultural identity became a mantle people in the Mediterranean might don and shed to survive in a dangerous world.

Chapter Two explores the importance of treaties, both in shaping British power and sovereignty in the Mediterranean, and their role in expanding the definition of a “British subject.” Saliha Belmessous argues that treaties were powerful tools that European empires used to “appropriate much of the globe.”⁹⁷ However, while a treaty might extend an empire’s territory or trading rights, it could also limit its sovereignty. I argue that British power in the Mediterranean was constrained and shaped by a series of treaties, most critically the Treaty of Utrecht and those with North African states. The 1713 Treaty of Utrecht ceded Gibraltar and Menorca from Spain to Britain, but it also limited trade with Spain, protected the rights of Catholic inhabitants of the new colonies, and banned from Gibraltar all “Jews” and “Moors”—potential allies who might help develop trade networks. By examining the correspondence between colonial governors in Gibraltar and the secretaries of state in London, I show that although governors and officials were anxious about angering Spain by breaking the treaty, it became increasingly clear that they needed to maintain contacts with North Africa in order to survive. Indeed, the limitations imposed on British sovereignty by the Treaty of Utrecht caused the British not only to ignore the ban on “Jews” and “Moors” in Gibraltar, but also to expand the rights and protections of British subjecthood to a diverse array of Mediterranean people. I examine the language of the successive treaties with North Africa to show how the British made increasingly explicit that the protections of British

⁹⁷ Saliha Belmessous, *Empire by Treaty: Negotiating European Expansion, 1600-1900* (Oxford University Press, 2014), 6.

subjecthood would extend not only to native-born Menorcans or Gibraltarians, but also to anyone who could help protect and sustain the colonies, regardless of national origin or religion.

Chapter Three focuses on diplomatic relations with North Africa, and the important role North Africa played in shaping British policy and power in the Mediterranean. Nabil Matar argues that by the eighteenth century, the Barbary States had lost much of their bargaining strength against the European empires.⁹⁸ Although many letters from British consuls requested that North African “offences” against them be met with shows of British military might, the ministry more often sought conciliatory rather than violent diplomatic relations with these North African states. Despite Matar’s claim that European states increasingly sought to exclude the Maghreb from diplomacy and trade, Chapter Three shows that for Britain, fostering trade and positive diplomatic relations with North Africa was crucial to maintaining military bases far from England and surrounded by major imperial rivals. By examining the correspondence of consuls in Tunis, Tripoli, Algiers, and Morocco, correspondence between the leaders of the Barbary States and the British Crown, as well as correspondence between the secretaries of state and governors of Gibraltar and Menorca, I uncover an evolving system by which the ministry maintained diplomatic relations with North Africa by ignoring the requests of inexperienced and culturally inept consuls (who increasingly gained their posts by a system of Whig patronage). Instead, they increasingly relied on local intermediaries to do much of the work of diplomacy with North Africa.

Chapter Four explores the eighteenth-century development of what Konstantin

⁹⁸ Matar, *British Captives*.

Dierks calls “documentary culture” to examine the ways in which the circulation of paper in the Mediterranean became what historians such as Miles Ogborn have contended was a “technology of empire.”⁹⁹ By examining the development of the water-born “packet” mail service through documents in the Royal Mail Archive and Admiralty correspondence, I show the ways in which letters connected the small and diffuse community of British officials and conveyed orders in the hierarchy of command. However, the documents that circulated in the Mediterranean were not simply a vehicle for information, but indeed conduits thorough which British sovereignty flowed. Letters of marque and Mediterranean passes became increasingly important as legal proofs of allegiance and subjecthood. Examining court cases brought in British Admiralty and Mediterranean Vice-Admiralty courts, I contend that the development of these forms of “documentary subjecthood” provided many of the rights and privileges of British subjecthood to a wide and diverse population, and were tools people in the Mediterranean used both legally and illegally to navigate a perilous world.

The final chapter explores the ways that inhabitants of Gibraltar and Menorca used the rhetoric of subjecthood in their conflicts with colonial governors. Legal historian Lauren Benton argues that European empires were often characterized by “layered sovereignty” and “legal pluralism,” a phenomenon that was pervasive in the Mediterranean colonies.¹⁰⁰ The Treaty of Utrecht protected the ancient Menorcan civil

⁹⁹ Konstantin Dierks, *In My Power: Letter Writing and Communications in Early America* (Philadelphia: University of Pennsylvania Press, 2011); Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago and London: University Of Chicago Press, 2007).

¹⁰⁰ Lauren A. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge; New York: Cambridge University Press, 2010); *Law and Colonial Cultures Legal Regimes in World History, 1400-1900* (Cambridge; New York: Cambridge University Press, 2002); Benton and Richard Ross, *Legal Pluralism and Empires, 1500-1850* (New York and London: New York University Press, 2013).

and ecclesiastical governments and the rights of Catholics in both colonies—a mandate which was antithetical to British civil law or the military nature of the colonies. The Lieutenant-Governors (who lived in the colonies and did almost all of the day-to-day business of civil administration) were exclusively military men, and were also the commanders of the garrisons. In Gibraltar, the lack of any civil government gave these governors tremendous control over their civilian populations. Still, Gibraltarians argued for their rights as British subjects and some forms of civil government developed slowly over the course of the eighteenth century. In Menorca however, the island’s traditional civil government continued to exist after the British conquest, and it would often vie for power against colonial governors. This government consisted of several *Universitats*—local councils made up of civil magistrates known as *Jurats*. The British had also promised to respect Menorcan *fueros*, a series of rights and capitulations that Menorcans has amassed over hundreds of years of rule by foreign powers. These protections, as well as silence from London on the extent of the powers granted to military governors, created contestations between British governors and local civil governments. Using court cases and other legal and government documents from archives in Gibraltar, Mahón, and from the Colonial Office in the UK, this chapter examines the ways in which the local councils and individuals used overlapping and unclear spheres of power to assert their rights as *British subjects*—or sometimes instead their rights as *Menorcans*, *Moroccans* or *Genoese* in disputes with colonial governors.

CONCLUSION

What would “British subject” come to mean as British sovereignty expanded to vast and disparate parts of the globe? This project offers a unique view of British

sovereignty and subjecthood during a period of rapid imperial expansion and emerging globalization. It explores the British Mediterranean, a cockpit of Britain's global empire located in the heart of maritime Europe—a largely forgotten imperial space in which British sovereignty was limited, and diverse people claimed the rights of British subjecthood to navigate a dangerous sea.

By the beginning of the eighteenth century, Britain had not only become an important trading nation in the Mediterranean, but had also acquired small territories in the western part of that sea. Although the British had originally hoped to develop these outposts into thriving centers of trade, it soon became clear that they were more important as garrisons and naval bases that could serve as important military centers from which to engage imperial rivals Spain and France. The necessity of protecting and provisioning the garrison-colonies required that imperial and colonial authorities depend on regional allies—particularly North African states—for support.

With no colonists and only small permanent garrisons of British troops, administrators in the colonies and London began to cultivate a flexible working definition of who might be considered a British subject. Subjects were theoretically under the control of the British crown, but also had special rights and privileges. At sea, they enjoyed protection from “Barbary pirates” and could obtain licenses to plunder enemy ships in times of war. In the colonies themselves, although governors attempted to exercise tight control in Menorca and Gibraltar, locals negotiated their rights through invoking their status as subjects. Not only would Menorcans and Gibraltarians be considered British subjects. An expanding array of Italians, Greeks, North Africans, Spaniards, and others would be able to exercise some of the rights and protections

afforded to native-born Britons. This would help authorities assert a British presence in spaces where native-born Britons were scarce, British sovereignty limited or non-existent, and local alliances were crucial for developing and maintaining British military and mercantile power.

Both native-born Britons and “new subjects” maintained and cultivated flexible allegiances and identities. While in the seventeenth century, flexibility might have helped English traders survive when the English state was weak, perhaps paradoxically, adaptability also helped Britain’s new Mediterranean subjects navigate the fierce imperial conflicts that emerged as British military strength grew.

This unique imperial sphere would develop through the resourceful ways that sailors, diplomats, inhabitants, and administrators negotiated, interpreted, accommodated, and subverted British power. Long before the global imperial conquests of the 1760s, Britain developed a template for its vast and diverse empire, right in the heart of Europe—affirming the subjecthood of Catholics, Jews, and Muslims in the Mediterranean—people who, in turn, used that status to safely traverse a war-torn world.

Chapter 1. Performing Subjecthood: Identity, Allegiance and Establishing a British Mediterranean

From the bluffs surrounding the Sant Nicolau Castle in the old Menorcan capital of Ciutadella, the peaks of Mallorca's Cap de Formentor rise westward across the Balearic Sea. Today the coast is quiet, a few ships dotting the choppy surf. Ferries run most days from Ciutadella's newly tarmacked port to the Mallorcan city Alcudia—a tourist town replete with chic waterfront bars and restaurants on the coast of Menorca's bigger and more popular sister island to the west. In Ciutadella, the rocky creek of the old harbor is too narrow for large vessels, but on calm days, a few pleasure yachts moor between its steep walls, bobbing with incongruous animation below the still, stone streets of the city. In the eighteenth century, however, this lonely seascape would have been brimming with activity. Small, fast, Mediterranean Pinks and Xebecs; slow, reliable Trabaccoli carrying cargo to Livorno, Genoa, Malta, or Egypt; smaller fishing vessels trolling the coastline, and Packet mail ships ceaselessly circling the coasts and islands of the Mediterranean, carrying people and letters around the sea. In wartime, French, Spanish, Dutch, British, Ottoman, or Russian men-of-war might cruise for prizes, and even a few massive old North African galleys might be seen, Christian slaves toiling in their hulls. The Mediterranean was swarming with ships and people of many nations, a seething, often violent and multicultural morass, encircled by lands dotted with cosmopolitan port cities and teeming metropolises.

By the seventeenth century, the sea and major port cities of the Mediterranean had long been a riot of languages, cultures, and civilizations. In Venice in 1657, English traveler John Reresby met “strangers and merchants, from several parts of the world,” including “Turks, Persians, Sclavonians, Grecians, and Jews; in fine, people of so many

different languages and habits, that it is a just surprise to see so much of the world in so narrow a place.”¹⁰¹ In this maritime milieu, cultural exchange and networks of trade were not bound by proximity or geography but rather built, as Peregrine Horden and Nicholas Purcell argue, by “human mobility.”¹⁰² The fluid sea at the region’s heart meant that port cities such as Livorno and Algiers might be “close,” while neighbors on land such as Genoa and Milan, 100 miles over mountainous terrain, might be quite distant.¹⁰³ The sea made trade an international affair: port cities like Livorno were bastions of religious and cultural diversity, and traders and sailors routinely crossed not only the borders of states and empires, but also the fluid boundaries of nationality, creed, or culture. Jewish merchants were the most famous for their ability to “acquire and shed different identities” and “cross cultural, religious and political boundaries” in the pursuit of trade. “To speak of the Jews,” writes David Abulafia, “is to speak of traders who had an unusual ability to cross the countries between cultures.”¹⁰⁴ This flexibility was, however, as Abulafia argues “an extreme case of a wider Mediterranean phenomenon.” The Mediterranean was, in his words, “a space in which not just goods but identities were traded, processed, and repackaged.”¹⁰⁵

British merchants entered into this diverse, flexible, and multicultural space in the sixteenth century, and as Alison Games contends, developed an adaptability whereby

¹⁰¹ John Reresby, *The Memoirs and Travels of Sir John Reresby, Bart* (London: E. Jeffery and J. Rodwell, 1813), 98.

¹⁰² Peregrine Horden and Nicholas Purcell, *The Corrupting Sea: a Study of Mediterranean History* (Wiley-Blackwell, 2000), 395.

¹⁰³ See Horden and Purcell, *The Corrupting Sea*, 133.

¹⁰⁴ David Abulafia, *The Great Sea: A Human History of the Mediterranean* (Oxford: Oxford University Press, 2011), 646.

¹⁰⁵ David Abulafia, “Mediterranean History as Global History,” *History and Theory* 50, no. 2 (2011): 221.

they might “deny or subvert their religious or national affiliations.”¹⁰⁶ Games argues that because of the weakness of the late sixteenth- and early seventeenth-century English state, merchants and other Englishmen who traded in the Mediterranean developed a capacity to adapt to local customs—a trait she calls “cosmopolitanism.” Between 1580 and 1660 the English could not depend on military prowess to further their aims and so instead “relied on the culture of trade, a style dictated by an acquisitive spirit inclined toward accommodation in order to extract the most advantageous terms of exchange.”¹⁰⁷ The comparison, then, between England’s place in the world when Elizabeth’s meager navy was lucky to fend off a Spanish invasion, with Britain’s position as a global imperial power after the victories and conquests of the Seven Years’ War, is striking. As John Brewer has pointed out, England began as a peripheral European power—a “minor, infrequent almost inconsequential participant in the great wars that ravaged sixteenth and seventeenth-century Europe,” and within two or three generations rose to become one of the most important weights in the balance of power in Europe and a global empire.¹⁰⁸ The growing strength of the British state and the spread of its power and influence would, in turn, affect the experiences of Britons who traveled, traded, and negotiated around the world.

It would be a mistake, however, to assume that the meteoric rise in British military might and the growth of a territorial British empire coincided neatly with a decline in the adaptability practiced by individual British subjects, or with a wholesale rejection by British policymakers of the accommodation England learned from the fluid

¹⁰⁶ Alison Games, *The Web of Empire: English Cosmopolitans in an Age of Expansion, 1560-1660* (Oxford: Oxford University Press, 2008), 74.

¹⁰⁷ Games, *The Web of Empire*, 53.

¹⁰⁸ John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (Cambridge: Harvard University Press, 1990), xiii.

Mediterranean world. Instead, when England gained each of its imperial footholds in the Mediterranean; Tangier in 1661, Gibraltar in 1704, and Menorca in 1708, the British attempted to slide gently into the Mediterranean milieu. With no British colonists, only a few British merchants, and small garrisons of troops in the new colonies, British administrators cultivated adaptable definitions of British subjecthood. Not only those born in Menorca and Gibraltar were considered British subjects. Many of the rights and protections afforded to “natural born subjects” would now be extended to Italians, Greeks, North Africans, Spaniards, and others. Extending these rights to this diverse set of Mediterranean people would help the British promote their interests in a region with few native-born Britons and where cultivating local alliances was necessary for developing and maintaining British power. For their part, both native-born Britons and “new subjects” maintained and cultivated flexible allegiances and identities to navigate the wars and imperial competition of the eighteenth century. In the seventeenth century, adaptability helped English traders survive and thrive in a world in which the English state was weak. In the eighteenth century, however, when the British state was growing in strength, adaptability and flexible allegiances allowed Britain’s new subjects in the Mediterranean to navigate a sea rife with imperial conflicts.

Like so many places in the Mediterranean, Menorca has a long legacy of cultural intermingling. Occupied successively by Phoenicians, Greeks, Romans, Vandals, Byzantines, and Moors, by 1700, Menorca was a Spanish possession and its population was composed almost entirely of Catholic speakers of Menorquí—a dialect of Catalan—who survived on subsistence agriculture and had little trade or intercourse with the wider cultures of the Mediterranean. Gibraltar was only slightly more diverse, with largely

Spanish and a few Genoese inhabitants prior to the British occupation.¹⁰⁹ By 1753, however, approximately 24% of the civilian population in Gibraltar were from the British Isles, 33% were Genoese, 32% Jewish (from various countries), and about 12% Spanish or Portuguese.¹¹⁰ By 1782, Menorca, though less diverse, had a significant and politically important population of Jews and Greeks and regular trade with Livorno and North Africa. Most importantly, Gibraltar and Menorca's port city of Mahon attracted an increasingly diverse population when Britain declared them ports for free trade in the early eighteenth century. For the people who lived and sailed in the Mediterranean—British born, British made, or others—adaptability and fluidity of allegiance remained important, even as the British state grew stronger. In the face of the relentless imperial warfare of the eighteenth century, sailors, captains, merchants, and travelers deployed a flexible sense of national allegiance for both personal gain and protection. As the British offered the rights of subjecthood to many diverse residents of the Mediterranean, British *subjecthood* rather than identity became a mantle that Mediterranean peoples could don and shed to survive in a perilous sea.

ENGLAND AND THE MEDITERRANEAN BEFORE THE EIGHTEENTH CENTURY

British Trade in the Mediterranean

From the sixteenth century, English trade with the Mediterranean took place in three distinct yet interconnected regions: the Spanish Mediterranean, the central Mediterranean (encompassing Italy and the Greek isles), and the Ottoman Eastern

¹⁰⁹ H. W. Howes, *The Gibraltarian: The Origin and Development of the Population of Gibraltar from 1704* (Gibraltar: MedSun, 1991), 2.

¹¹⁰ Howes, *Gibraltarian*, 3.

Mediterranean.¹¹¹ Prior to the sixteenth century, Genoa, Florence, and Venice wielded almost exclusive control over English trade with the “middle sea.”¹¹² Venetian ships transported Italian manufactures and Turkish commodities to Northern Europe and returned laden with wool, tin, and lead.¹¹³ Principal commodities brought to Europe from the Ottoman Empire were silk, cotton, mohair yarn, goat’s hair, and dyestuffs for the textile industries; drugs and spices; as well as fruits and coffee.¹¹⁴ Through this lively trade, by the fourteenth century there were enough Venetian merchants in England that they required their own consul.¹¹⁵ In the sixteenth century, however, the yearly deliveries of the so-called “Flanders Galleys” had begun to wane, giving English merchants incentive and opportunity to travel through the straits.¹¹⁶ By 1600, English trade with the Mediterranean was carried out almost entirely by English ships. Anticipating the

¹¹¹ Ralph Davis, *The Rise of the English Shipping Industry in the Seventeenth and Eighteenth Centuries* (London: Macmillan, 1962), 242.

¹¹² Gigliola Pagano De Divitiis, *English Merchants in Seventeenth-Century Italy* (Cambridge: Cambridge University Press, 1997), 1-2; Mortimer Epstein, *The Early History of the Levant Company* (G. Routledge & Sons, Limited, 1908), 2-3; Alfred C. Wood, *A History of the Levant Company* (Routledge, 1964), 3-5.

¹¹³ De Divitiis, *English Merchants*, 2.

¹¹⁴ Alexander Drummond, *Travels Through Different Cities of Germany, Italy, Greece, and ... Asia*, (London: W Strahan, 1754), 27; For English imports from the Mediterranean 1622-1701 see De Divitiis, *English Merchants*, Table 1.1, 33; C.G.A. Clay, *Economic Expansion and Social Change: England 1500-1700*, vol. II, (New York: Cambridge University Press, New York, 1984), 157.

¹¹⁵ Rawdon Brown ed., *Calendar of State Papers and Manuscripts, Relating to English Affairs Existing in the Archives and Collection of Venice, and in Other Libraries of Northern Italy, Volume I* (London: Longman, Green, Longman, Roberts, and Green, 1864), 59. See for example “Consuls and all the other merchants of Venice residing in London to Chancellor, 1418-1419,” TNA Special Collections (Hereafter SC) 8/302/15058. “The consuls and other merchants request that the customers of London be charged not to demand the custom and subsidy on 6 bales of cloth which [Robert] Cunteryn charged on a ship to Sandwich to be loaded on a Venetian galley there, but which were returned to London because they could not be charged on the galley. The custom was paid but the customers demand it again.”

¹¹⁶ Historians are divided on the reasons for the decline in this trade. Many point to internal Mediterranean conflicts such as the Italian Wars and a rise in conflicts between Christian and Muslim shipping as the source of the change. Epstein links the diminution of the trade to Henry VII’s naval ambition and taxation of foreign ships, and to the League of Cambri. Other historians link the decline in trade to the development of Antwerp as a major trading center that cut England out of direct trade. Braudel argues that economic crisis in continental Europe broke these trade connections. See Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II* (London: Collins, 1972), 556; Mortimer Epstein, *The Early History of the Levant Company* (G. Routledge & Sons, Limited, 1908); G. D. Ramsay, “The Undoing of the Italian Mercantile Colony in Sixteenth-Century London,” in N.B. Harte and K. G. Ponting eds., *Textile History and Economic History: Essays in Honour of Miss Julia de Lacy Mann* (Manchester: University of Manchester Press, 1973): 22-49; Davis, *English Shipping*, 6.

Navigation Acts that would give preference to British shipping in the mid-seventeenth century, an English Order in Council of 1615 explicitly prohibited Mediterranean imports from entering England on any but English ships, or those of certain Mediterranean ports.¹¹⁷

In the eastern Mediterranean, the Levant Company strove to bypass Italian middlemen through a 1580 treaty with the Ottoman Empire. The company developed trading factories in already-established commercial centers such as Istanbul, Alexandria, Smyrna, and Aleppo—the headquarters for the company trade. By 1588, the Levant Company had a regulated monopoly on trade with the Ottoman Empire.¹¹⁸ In the central Mediterranean, Livorno was fast becoming a regular port of call for all ships going to and from the Levant, and a place where goods were often warehoused and consigned. When, in the mid 1620s, the Thirty Years' War closed the overland routes from Italy to North West Europe, trade between the Italian peninsula and the British Isles took to the seas and became largely centered in Livorno.¹¹⁹ In the western Mediterranean, Cadiz developed as the chief port of call for English ships, serving as a crossroads for trade into and out of the sea. Most ships would stop at Cadiz on their way through the straits, and often took in extra cargoes for various Mediterranean ports on their journeys east. Ships returning to England from the eastern or central Mediterranean also stopped in Cadiz, where they took in olive oil, oranges, lemons, wine, and other goods for English tables.¹²⁰ In addition to the trade between the British Isles and Mediterranean ports, by the seventeenth century

¹¹⁷ Proclamations of 17 April 1615 and 12 October 1615 in R. Steele, *Tudor and Stuart Proclamations, 1485-1714 vol. 1* (Oxford: The Clarendon Press, 1910), 137, 138 ; Davis, *English Shipping*, 242.

¹¹⁸ Mortimer Epstein, *The Early History of the Levant Company* (London: G. Routledge & Sons, Limited, 1908); Alfred Wood, *A History of the Levant Company* (Oxon: Frank Cass & Co., 1964)

¹¹⁹ Davis, *English Shipping*, 244.

¹²⁰ Peter Earle, *Sailors: English merchant seamen 1650-1775* (London: Methuen, 2007), 6; Davis, *English Shipping*, 230.

English ships began to engage in the “carriage” or “carrying trade”—moving goods between various ports in the region. English ships were fast and well armed, and England was often neutral in Mediterranean wars. Their services were demanded by both Christian and Muslim merchants because as Christians they were safe from Tuscan and Maltese privateers, and as Protestants, they shared common Catholic enemies with the Ottoman Empire and their North African Regencies—the “Barbary States.” As England began to build treaties with Muslim realms, English ships were also increasingly safe from attacks from North African privateers.¹²¹

SAILORS AND NATIONAL ALLEGIANCE IN THE SEVENTEENTH CENTURY: NED COXERE’S STORY

Describing the early modern Mediterranean, Fernand Braudel writes: “Men passed to and fro, indifferent to frontiers, states and creeds. They were more aware of the necessities of shipping and trade, the hazards of war and piracy, the opportunities for complicity or betrayal provided the circumstances.”¹²² One such man was Ned Coxere, a seventeenth-century sailor born in Dover who set out to sea as a teenager and spent most of his life sailing the Mediterranean. He served on board English, Spanish, and Dutch merchant ships; fought for the Dutch against the English and then the English against the Dutch, the Spanish against the English and the English against the Spanish. He escaped captivity by the English once, by the Spanish twice, and from his experience of five months of slavery in Tunis. Coxere was also a master impersonator of men from other nations—fluent in French, Dutch, Spanish, and the trade language known as the Mediterranean Lingua Franca. He escaped Spanish captivity by blending in with a

¹²¹ Davis, *English Shipping*, 247.

¹²² Braudel, *Mediterranean*, 759.

Spanish crew, and escaped an English press gang by posing as a Dutch merchant.¹²³ Coxere's story offers us a window into the multicultural world of the Mediterranean sailor and the myriad ways in which seamen navigated a precarious, multiethnic world rife with warring nations.

The Mediterranean was, in many respects, a microcosm of the burgeoning world of early modern global trade, and even more than merchants, the sailors who carried goods around the world were an international lot. The multinational space of the early modern ship constituted a "community apart" from the cultures, societies, and political structures on land. Peter Linebaugh and Marcus Rediker argue that the ship served as "a forcing house of internationalism" in which working people of different races and from different parts of the world were able to exchange information and ideas.⁷ As Rediker notes, sailors like Coxere "worked among men who, it must have seemed, came from almost everywhere: from every corner of England, America, the Caribbean; from Holland, France, Spain, all of Europe; from Africa and even parts of Asia. Regional, national, and ethnic identities abounded in the ships of the world."¹²⁴ But sailors were not only an international lot. They also developed their own distinct culture. Tanned, tattooed, and with strange clothing, dialects, and customs, sailors seemed, as John Fielding wrote in 1776, "a generation differing from all the world...their manner of living, speaking, acting, dressing, and behaving, as so very peculiar to themselves."¹²⁵ The long periods of time these men spent together, far from any wider society, could

¹²³ Edward Coxere, "A Relation of the Severall Adventures By Sea with the daingers Dificultie[s] and hard Ships I met for Severall years," Friends' Library [Hereafter FL] MS Vol. 281.

¹²⁴ Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750* (Cambridge UK: Cambridge University Press, 1987), 80.

¹²⁵ John Fielding, *A brief description of the cities of London and Westminster*, (London: J. Wilkie, 1776), xv.

cement the bonds of their “community apart,” and develop the maritime culture that was “so very peculiar” to sailors. Crossing the Atlantic, for example, would involve a month-long journey, isolated aboard a tiny vessel in a vast expanse of ocean. In the Mediterranean, on the other hand, journeys between ports could be quite short. For sailors from England or other distant places, however, a Mediterranean voyage aboard a single ship might last several years—especially on vessels going port-to port in the “carrying trade.”¹²⁶ For those who sailed the Mediterranean, their “community apart” had frequent contact with communities on land—societies that shaped sailors’ language and culture. In the crowded, multicultural world of the Mediterranean Sea, sailors and traders even spawned their own trade language, the Mediterranean Lingua Franca, or “open language,” which was a mixture of Italian, Provencal, Spanish, Portuguese, Turkish, Greek, and Arabic.¹²⁷

Despite the diverse crews of early-modern sailing vessels, in an attempt to channel the growing global trade in England’s favor, in the mid-seventeenth century the English state began to enact various regulations on shipping and trade known as the “Navigation Acts.”¹²⁸ Crucial constraints on the lives and livelihoods of sailors, the acts stipulated that three out of four seamen on English ships be subjects of the crown.¹²⁹ Such requirements, however, were rarely or unevenly enforced, especially in times of war or

¹²⁶ Earle, *Sailors*, 9.

¹²⁷ See Henry Romanos Kahane, *The Lingua Franca in the Levant: Turkish Nautical Terms of Italian and Greek Origin* (Champaign: University of Illinois, 1958).

¹²⁸ Anticipating these acts was an Order in Council of 1615, which prohibited import from the Mediterranean except in ships of English or certain Mediterranean ports. 17 April 1615, 12 October 1615 see R. Steele, *Tudor and Stuart Proclamations 1485-1714 vol. 1* (Oxford: Clarendon Press, 1910), 138. Charles II, 1660: “An Act for the Encouraging and increasing of Shipping and Navigation,” John Raithby ed. *Statutes of the Realm: volume 5: 1628-80* (London: Great Britain Record Commission, 1819), 246-250.

¹²⁹ Article VII, “Charles II, 1660: An Act for the Encouraging and increasing of Shipping and Navigation,” Raithby, *Statutes of the Realm* 5, 246-250.

labor scarcity when even the British state acknowledged that half or more of ships' crews might well be "foreign."¹³⁰

Work aboard merchant ships provided mariners like Coxere shorter voyages than the Navy, better wages, and better opportunities for prosperity in the form of "venture"—a personal stock of goods individual sailors could bring aboard in hopes of making their own profits. Despite these benefits, life aboard any ship was full of dangers: pirates, privateers, and the Navy's press gang. To negotiate the dangerous and precarious world of the maritime Mediterranean, sailors could resort to trickery and deception. In order to trade with Spain during the Anglo-Spanish War, Coxere, another Englishman who spoke Dutch, and four or five Dutch seamen went ashore near Spain's North African fort of Santa Cruz,¹³¹ claiming they were "Hollanders." The ruse was so meticulous that they had "writings all made in Dutch (my name was to be Peter Johnson of Amsterdam), and had clothes fitted after the Dutch fashion."¹³² For Coxere, language and culture—in the form of national dress—were important markers of national allegiance. Indeed, Coxere's personal ability to dissemble his national identity was helped immensely by his linguistic skills. After being captured by a Spanish man-of-war, Coxere managed to escape by blending in with the crew. Hearing that a Dutch ship was anchored nearby, Coxere used his knowledge of Spanish to negotiate a ride from a boatman who came to the ship to sell wine. The boatman, assuming that Coxere was a member of the ship's company, rather than an English prisoner, took Coxere to the Dutch ship. "I went aboard of the Hollander," Coxere later wrote, "where I paid the boatman, and he went about his

¹³⁰ Rediker, *Between the Devil and the Deep Blue Sea*, 80.

¹³¹ Santa Cruz fort was in the North African coastal city of Oran, which is located in the northwest of modern Algeria. The Spanish occupied Oran between 1509 and 1708, and then again between 1732 and 1792.

¹³² Coxere, "Adventures By Sea," FL MS Vol. 281.

business, not knowing he had cheated the king of a prisoner.”¹³³

The complex and skilled performance of identity and allegiance which Coxere’s narrative demonstrates would, however, evolve and fade over the course of the eighteenth century. With new Spanish- or Italian-speaking Menorcan and Gibraltarian subjects, language and clothing would no longer constitute the marker of national allegiance. Instead the more legalistic and in some ways murkier status of “British Subject” would replace the performance of national identity. Performing national allegiance became increasingly a matter of presenting legal documents and bringing court cases, and less a matter of language and culture—a shift toward the bureaucratic organization of people hinted at by Coxere’s meticulously forged papers identifying him as a Dutch merchant. While in the 1650s such papers would need to be combined with a passable knowledge of Dutch and sartorial ingenuity, by the 1780s, “inhabitants” of Gibraltar or Menorca, regardless of their language, culture, or place of birth, might present Mediterranean passes, ships’ papers or letters of marque to prove (or dissimulate) their national allegiance.

False Flags

Even in the seventeenth century, not only individuals, but indeed entire ships could counterfeit their national allegiance. When ships met on the open seas in wartime, the flags they flew would tell other captains and crews whether they were friend or foe. While Coxere was sailing in an English ship during the Anglo-Spanish War, the captain flew the colors of neutral Livorno in order to safely load goods from the Canary Islands, then under Spanish rule. The captain sent an Italian sailor ashore who would pretend to

¹³³ Coxere, “Adventures By Sea,” FL MS Vol. 281.

be the ship's master, "so as we might trade without danger."¹³⁴ So common (and perhaps so transparent) was this particular deception that another English ship (which itself flew Dutch colors in the harbor) fired on Coxere's ship. Suspicious that the Livornese flag must be "a decoy," the captain believed that Coxere's ship was in fact Spanish.¹³⁵ Although the crew of Coxere's ship hoped the Livornese flag would protect them from attack, the crew of the other English ship assumed a neutral flag indicated a trap. In the complicated guessing game of "false flags," an English ship pretending to be Dutch might, as Coxere describes, fire on an English ship pretending to be Italian.

Flying false flags could be used for both protection and for surprise aggression and remained a popular method of perpetrating or preventing attacks into the eighteenth century. The Admiralty sent out numerous warnings for British ships to be on their guard.¹³⁶ During the War of Austrian Succession, Admiral Cavendish warned the fleet that "several of the Enemies Privateers are either English or Dutch Built, others belong to Dunkirk, and some resemble French Fishing Boats, and even mix with them near the shore, and are supposed to be assisted by them...you are to be very watchful in fixing every ship Vessel or boat you meet with, and not to trust to every ship or Build, or to Colors."¹³⁷ North African corsairs too, used false flags to lure their prey into a sense of security, sometimes coming alongside or boarding as friends.¹³⁸ After the English sailor Joseph Pitts was taken captive by an Algerian cruiser, the ship took two other vessels—the first, an English craft they captured after "they hauled up their sails and hanged out

¹³⁴ Coxere, "Adventures By Sea," FL MS Vol. 281.

¹³⁵ Coxere, "Adventures By Sea," FL MS Vol. 281.

¹³⁶ See for example, Admiralty to Captain Pocock, 6 October 1743, Huntington Library [hereafter HL] Pocock Papers [hereafter PO] 462.

¹³⁷ Philip Cavendish to Pocock, 1 September 1742, HL PO 405.

¹³⁸ Earle, *Sailors*, 120.

our English king's colors and so appearing man-of-war-like" lured the English ship to her doom. In the second capture, the Algerians "used the like strategies to decoy her down...by putting up Dutch colors."¹³⁹

Captivity

Throughout the seventeenth and eighteenth centuries, Europeans sailing in the Mediterranean were in danger of being captured by North African privateers, after which they would be either ransomed or sold into the Barbary Coast slave trade. Over the course of the seventeenth and eighteenth centuries, North African privateers took over 20,000 English and British captives.¹⁴⁰ Captivity was a constant threat for early modern sailors, and Daniel Defoe wrote (perhaps hyperbolically for the 1720s) that "not a sailor goes to sea in a merchant ship...but he feels some secret tremor that it may one time or other be his lot to be taken by the Turks."¹⁴¹ Although the number of Britons in captivity or slavery in North Africa drastically decreased in the eighteenth century, the climate of fear created by the numerous captivity narratives published throughout the period, along with the very real threat of capture, made slavery in North Africa a major concern for sailors,

¹³⁹ Joseph Pitts, *A True and Faithful Account of the Religion and Manners of the Mohammedans, with an Account of the Author's Being Taken Captive* (Exeter: S. Farley, 1704), 4.

¹⁴⁰ The number of British captives in North Africa is impossible to accurately count, but several historians have made estimates. Linda Colley estimates around 20,000 in the seventeenth and eighteenth centuries. See Linda Colley, *Captives: Britain, Empire and the World, 1600-1850* (London: J. Cape, 2002), 48–56, 392 n24 and n32. Catherine Styer estimates the number of British captives during this period at 26,000: Styer, *Barbary*, 43. These numbers, however, are quite imprecise. For the difficulty estimating the number of captives see Matar, *British Captives*, Introduction and Chapter 1. By consulting diverse sources, Matar also created a list of Britons captured: Matar, *Captives*, 196–299. He does not include captives who converted to Islam, or "non Britons," "particularly French Protestants, or Dutch and German nationals during the reigns of William III, George I, and George II," Matar, *Captives*, 13–16. It is unclear to what extent Matar has included Gibraltarians in his list, but his claim that "There were also Spaniards after Majorca [sic] came under British rule, British Library (Hereafter BL) MS Egerton 2528 fos. 95–96," makes it clear that he has not included the many *British subjects* from *Menorca* who were captured, ransomed or enslaved, Matar, *British Captives*, 17 n60.

¹⁴¹ Daniel Defoe, John McVeagh ed., *Writings on Travel, Discovery and History: A General History of Discoveries and Improvements (1725-6) and An Essay upon Litold baileyerature* (London: Pickering & Chatto, 2001), 121.

merchants, and travelers, and a defining experience of international contact in the Mediterranean.¹⁴² As late as 1746, the British consul in Lisbon reported that ninety English captives in North Africa were “turned moors for want, having no Subsistence allowed them, and it is feared others will be obliged to do the Same...”¹⁴³ Under Muslim law, any Christian captive who converted to Islam would be freed, and in fact a great number of these converts grew to be quite successful in their adopted homelands. Joseph Pitts (who was himself captured by a Dutch “renegade”) converted to Islam and served aboard an Algerian privateer that attacked Christian shipping.¹⁴⁴ Ned Coxere as well was captured by a Tunisian cruiser (captained by an English “renegade”) and spent several months in slavery in North Africa. While in captivity, a slave master told Coxere that if he would “turn Turk” he “might be captain of the ship.” Coxere declined because he “had a wife and children at home.”¹⁴⁵ Other seamen, however, did quite successfully make the conversion. According to Coxere, an English coxswain who had been particularly kind to him, “became a rich man and had the Ann, one of the Turk ships.”¹⁴⁶

¹⁴² Vitkus and Matar’s edited collection of early modern English captivity narratives gives a good sample of these stories and publications. see *Piracy, Slavery, and Redemption*.

¹⁴³ Consul Burnell to Lord Vere Beauclerk, 17 December 1746 OS, TNA State Papers (hereafter SP) 89/44 f. 252.

¹⁴⁴ Pitts, *A True and Faithful Account*.

¹⁴⁵ Coxere, “Adventures By Sea,” FL MS Vol. 281

¹⁴⁶ Coxere, “Adventures By Sea,” FL MS Vol. 281



Porto Farina Castle, Edward Coxere, 1684

Located on the northeastern coast of modern Tunisia, Porto Farina [Ghar al Milh], was an important base for Barbary corsairs. Image from Edward Coxere, "A Relation of the Severall Adventures By Sea with the daingers Dificultie[s] and hard Ships I met for Severall years," Friends' Library MS Vol. 281.

European sailors who converted to Islam were valuable assets to North African fleets, but women captives could advance by converting to Islam as well, and might prove to be important diplomatic go-betweens. Although evidence about the lives of female converts is sparse, we know of several female captives who were able to escape slavery by entering a North African leader's harem. Nabil Matar argues that after the "horror of initial captivity," potential economic and social advantage "awaited the captive if she learned how to operate in a harem with hundreds of other rivals."¹⁴⁷ For example, a Moroccan privateer captured a fifteen-year-old English girl bound for Barbados in 1685. After she converted to Islam and entered the Sultan's harem, she became a favorite of Emperor Mawlay Isma'il, and, some evidence suggests, was the mother of Muhammad al-'Alem, who would later proclaim himself Sultan and occupy Marrakesh in an attempt to wrest power from his father.¹⁴⁸ Sometimes referred to as "Lala Bilqis," Arabic for the Queen of Sheba, this woman, whose English name has vanished from the historical record, rose steadily through the ranks of the harem. Although most wives were dismissed after the age of 30, Lala Bilqis was allowed to move about freely and stayed in the Sultan's favor until she was at least 50 years old.¹⁴⁹ Lala Bilqis also inserted herself into diplomatic relations with England. In 1711, she sent, by way of Moroccan

¹⁴⁷ Nabil Matar, *Britain and Barbary, 1589-1689*, (Gainesville: University Press of Florida, 2005), 99.

¹⁴⁸ Francis Brooks, *Barbarian Cruelty Being a True History of the Distressed Condition of the Christian Captives under the Tyranny of Mully Ishmael, Emperor of Morocco*, (London: J. Salusbury and H. Newman, 1693), 27-43. Brooks claimed that Mawlay Isma'il "often Times shews some Sort of Indulgence, one of his Favourite Sultana's, and English Woman, that by the Means of insupportable Cruelties, was forc'd to embrace Mahometanism, was that very Day Brought to Ben of a Son," *A Description of the Nature of Slavery Among the Moors* (London: J Peele, 1721) 4-5. In 1699-1700 Isma'il divided his provinces between his sons and sent Muhammad al-'Alem to the Sūs where he rose against this father, proclaiming himself Sultan and marched on Marrakesh which he occupied. See Bethwell A. Ogot, *Africa from the Sixteenth to the Eighteenth Century* (Berkeley, CA: University of California Press, 1992), 230.

¹⁴⁹ "Only Sultana Zidana, either on account of her Age, or of the Favour she is in with the King, has the Privilege to go abroad into the City, and into all parts of the Alcaffava as often as she pleases. The English Woman, who knows how to keep in her Favor, as well as the King's, has also more Liberty than the rest, and commonly bears her Company." See Dominique Busnot, *The History of the Reign of Muley Ismael, the Present King of Morocco* (London: A. Bell and J. Baker, 1715), 51-52.

Ambassador Bentura de Zuri, her “Love and Esteem” to Queen Anne, and assurance that she would serve the Queen, “whom she will be glad of Opportunitys to shew the sincerity she desires to contribute all she can cultivate a good correspondence between your most Serene Majesty & the Empr. My Great Master.”¹⁵⁰ When Queen Anne sent an embassy to Morocco in 1713, among the gifts for important people in the Sultan’s government and household was “A Rich Crimson Velvet” sedan chair for the “Darling sultanness a Native of England.”¹⁵¹ When, in 1720, envoy Charles Stewart visited Morocco to sign an Anglo-Moroccan peace treaty, he brought “5 Loads of Cloth” for “Lala Balkies a Renagado Queen.”¹⁵² Not only did converting to Islam and joining Mawlay Isma‘il’s harem liberate this English girl from captivity, it also significantly raised her social status and financial situation from what it might have been had she remained in England or made it to Barbados in 1685, where she was probably headed for a life of indentured servitude.¹⁵³ As Matar argues, not only might Christian women attain social and political status through captivity and conversion, they also sometimes “facilitated exchange and trade,” by cementing “strategic alliances and commercial agreements between their adopted country and their original homeland,” because, as Matar points out, they were “seen by their one time countrymen as retaining some of their cultural ties to Christendom.”¹⁵⁴

Other stories, however, belie the image of a bright future for any captive willing to convert to Islam for spiritual or practical reasons. A young Irish woman known as

¹⁵⁰ Bentura De Zari to Lord Dartmouth, 24 August 1711, TNA SP 71/15 f. 29.

¹⁵¹ “An Estimate of the Particulars of a Present from Her Majestie To the Emperor of Morocco,” 24 June 1713, TNA SP 71/16 f. 95.

¹⁵² “Distribution of Presents to the Court of maiquines by the Hon. Charles Stewart esq,” n.d. [1720], TNA SP 71/16 f. 320.

¹⁵³ “An Estimate of the Perticulars of a Present from Her Majestie, To the Emperor of Morocco,” 24 June 1713, TNA SP 71/16 f. 95. See also Matar, *Britain and Barbary*, 100-102; Matar, *Captives*, 40.

¹⁵⁴ Matar, *Britain and Barbary*, 103.

“Mrs. Shaw,” who had also entered Mawlay Isma‘il’s harem, for example, was eventually given by the Emperor to a Spanish *Renegado* who abandoned her. When English captain John Braithwaite met her in Morocco in 1729, she had spent nine years in that country, forgotten most of her English, had a young infant to care for, and was “almost naked and starved.”¹⁵⁵ In her book about British Captives in the Mediterranean, the Americas, and India, Linda Colley describes captive Britons as the “underbelly of empire.” She argues that British captives generally, and Barbary captives specifically, “embodied in a particularly dramatic form the vulnerability of the laboring poor in general.”¹⁵⁶ For the British men and women who might be plucked from a ship and sold into slavery, Barbary captivity could be just one in a long line of threats to their liberty. John Kay, for example, a Northumberland apprentice, was swept by the press gang into the army in the early eighteenth century. When he was freed, he went to sea aboard a Venetian merchant ship, was captured by Algerian corsairs, and was a slave in North Africa for three and a half years. Upon his return to England in 1724 he was arrested for vagrancy and hauled before the Lancashire Justices of the Peace to whom he told his story.¹⁵⁷ Apprenticed, pressed, enslaved, and imprisoned, Kay’s vulnerability to capture did not define him as an Englishman, but rather as a poor man with few resources to defend himself. As a member of the laboring poor, Colley points out, Kay “experienced virtually his entire adult life as a succession of captivities.”¹⁵⁸

Indeed Catherine Styer argues that the government of England itself attempted to

¹⁵⁵ John Braithwaite, *The History of the Revolutions in the Empire of Morocco: Upon the Death of the Late Emperor Muley Ishmael; Being a Most Exact Journal of What Happen’d in Those Parts in the Last and Part of the Present Year. With Observations Natural, Moral and Political, Relating to That Country and People* (London: James and John Knapton, Arthur Bettesworth, 1729).

¹⁵⁶ Colley, *Captives*, 4.

¹⁵⁷ Lancashire Record Office, QSP 1223/7 as cited in Colley, *Captives*, 85.

¹⁵⁸ Colley, *Captives*, 85.

use the threat of captivity in North Africa to control the behavior of British sailors, who might be tempted to sail with ships carrying the goods of England's commercial rivals.¹⁵⁹ Too many Englishmen serving on the ships of European rivals might allow those nations to benefit from English mariners' knowledge of British trade routes, and from treaties with North Africa that were meant to protect *British* shipping.¹⁶⁰ While non-British passengers or merchants on British ships were protected from enslavement, the seventeenth-century treaties with Algiers that protected English ships did not explicitly state whether English sailors serving on *foreign* ships would be protected. Noticing this discrepancy, in 1700 consul Robert Cole attempted to revise the treaty with Algiers so that it would protect British subjects on board ships without an English Mediterranean pass. For any ship without a pass, he proposed, "the Goods on board that ship shall be Prize, But the Master, Men, and Ship shall be restored."¹⁶¹ After protests from English merchants that this might lead to the "omission, negligence, or Collusion" of masters to sail without passes, or to circumvent English trade protections, in 1701 Cole reinstated the ambiguous terms of the 1682 treaty.¹⁶² With this threat of captivity, the English government hoped to prevent their subjects from sailing on foreign vessels, and to discourage English ships from sailing under false flags in order to avoid the duties and rules set forth in the Navigation Acts. As Styer argues, by refusing to protect Britons on foreign vessels or sailing under a "flag of convenience," the British government might

¹⁵⁹ Catherine M. Styer, "Barbary Pirates, British Slaves, and the Early Modern Atlantic World, 1570—1800," (PhD diss., University of Pennsylvania, 2011)

¹⁶⁰ Styer, "Barbary Pirates," 153; "Committee Report on the complaints of the merchants touching what was paid for Mediterranean Passes," 29 February 1729, TNA Privy Council (hereafter PC) 2/91, ff. 187-190; "A Proclamation Relating to the articles of Peace concluded between His majestie & the Government of Algiers," TNA SP 71/5, f. 457.

¹⁶¹ "Copy of an article made by Commander Munder in 1700," TNA SP 71/5 f. 158.

¹⁶² Instructions to Robert Cole, Consul General at Algiers, 12 May 1701, TNA SP 71/4 f. 44.

use the threat of captivity to force their sailors to abide by British laws.¹⁶³ In 1721, for example, an Algerian cruiser captured the *George* and enslaved the crew. The captain, John Young, was able to pay his own ransom, and lobbied the British government to help free his British crewmembers. After repeated claims by the Algerians that the ship was Portuguese, not British, Young finally confessed that he had secretly sold the vessel to Portuguese owners in order to avoid the duties imposed on English shipping. Technically, therefore, the ship had been taken under Portuguese colors, and the crew could not be redeemed.¹⁶⁴ Styer's work makes clear that the protections of British subjecthood might be withdrawn from those helping England's competitors. On the other hand, as I will argue in the following chapters, those protections might be extended to those whose commercial activity supported Britain's military presence in the Mediterranean.

The eighteenth-century acquisition of Gibraltar and Menorca increased the importance of protecting foreigners involved in British shipping—particularly on ships supplying the garrisons of Gibraltar and Menorca. Treaties with North African states specified that Mediterranean passes were only to be granted to vessels with British captains and crews that were two-thirds British subjects. The fact that the new British colonies granted passes to vessels with so many “foreign” sailors, however, often caused consternation from the captains of Barbary cruisers and North African leaders alike. In 1752, for example, the governor of Tétouan complained that his cruisers had encountered several vessels “with English Colours without so much as one English Subject aboard,” and that some Genoese and other foreigners had committed “piracies” while under the protection of a British pass issued at Gibraltar. The governor of Gibraltar responded by

¹⁶³ Styer, “Barbary Pirates,” Chapter 3.

¹⁶⁴ Deposition of John Young, Commander of the ship *King George*, 10 December 1722, TNA SP 71/6 pp. 197-200; Charles Hudson to Delafaye, 10 November 1725, TNA SP 71/6, pp. 385-388.

writing that in fact the majority of Gibraltar's inhabitants neither spoke English "nor had the appearance of the Native English."¹⁶⁵ This did not mean, however, that they were not to be treated as British subjects. Indeed, as I will discuss further in Chapter 2, despite the fact that these inhabitants might not appear to be "Native English," they were protected by treaties with Morocco and other North African states that specifically stipulated that they were to be "considered and esteemed" British subjects.¹⁶⁶

Impressment

While treaties with North African States protected most British subjects from slavery, they did not protect subjects from another form of capture and captivity. Unlike the dangers from other states, the practice of naval impressment brought British sailors face to face with the direct violence of British state power itself. Voyages aboard merchant ships generally lasted between nine and ten months, but seamen in the Navy could find themselves aboard a man-of-war for years on end, making naval service a largely unpopular seafaring choice.¹⁶⁷ During times of armed conflict, press gangs patrolled port towns, sweeping British sailors into the Navy. Several acts in the sixteenth, seventeenth, and eighteenth centuries codified the press gang tradition, including the Vagabonds Act of 1597, which created a class of people liable to impressment. According to the act, "idle peoples, rogues, sturdy beggars and vagabonds" could be

¹⁶⁵ Petticrew to Herbert, 28 August 1752, TNA CO 91/11 f. 290; Herbert to the "Alcayde of Tetuan," 2 September 1752, TNA Colonial Office (hereafter CO) 91/11 ff. 290-291.

¹⁶⁶ See Treaties with the "Barbary States" reprinted in Lewis Hertslet ed., *Hertslet's Commercial Treaties: A Collection of Treaties and Conventions, Between Great Britain and Foreign Powers...Vol. 1* (London: H.M.S.O., 1905).

¹⁶⁷ Nicholas Rogers, *Press Gang: Naval Impressment and Its Opponents in Georgian Britain* (New York: Continuum, 2007), 6.

impressed into the Navy.¹⁶⁸ Further, those convicted of crimes were sometimes ordered into naval service. In 1689, for example, Samuel Gibbons was indicted and pled guilty to stealing a silver drinking vessel and was ordered into the Navy.¹⁶⁹ In the same year, Samuel Knightly and Thomas Emmerson were indicted for wounding Richard Hawkins in a fight.¹⁷⁰ Likewise, both were “ordered to Sea in Their Majesties Service.”¹⁷¹ By sending convicts into the Navy, the courts not only effectively exiled “undesirable characters,” but also helped build the armed forces in times of war. Orders to enter the army or navy were most frequently given during the War of the Grand Alliance (1688-1697), the War of the Spanish Succession (1701-13), the War of American Independence (1775-83), and the Napoleonic Wars (1793-1815).¹⁷²

Resistance to impressment could lead to violent conflict and sometimes death. As Nicholas Rogers describes it, “press-gang affrays were extremely violent, for threatened seamen were quite prepared to use knives, cutlasses, pokers, shovels, and broken glass to defend themselves. Cuts, bruises, and fractures were commonplace in these affrays, and sometimes gangers and the prey lost eyes, ears and even part of their noses.”¹⁷³ In 1688, five Middlesex soldiers seeking to impress John Snape were convicted of manslaughter after Snape refused to tell them his name or accept the King’s shilling—the coin offered

¹⁶⁸ A. Vass, *Alternatives to prison: punishment, custody, and the community* (Thousand Oaks, CA: Sage, 1990), 5.

¹⁶⁹ Trial of Samuel Gibbons, May 1689, Old Bailey Proceedings Online (www.oldbaileyonline.org, version 7.2, 01 September 2015) [Hereafter OB] t16890516-6; Punishment Summary, 16 May 1689, OB s16890516-1.

¹⁷⁰ Trial of Samuel Knightly and Thomas Emmerson, 16 May 1689, OB t16890516-56.

¹⁷¹ Punishment Summary, 16 May 1689, OB s16890516-1.

¹⁷² Clive Emsley, Tim Hitchcock and Robert Shoemaker, “Crime and Justice - Punishments at the Old Bailey,” OB.

¹⁷³ Rogers, *The Press Gang*, 13.

to sailors as a reward for volunteering.¹⁷⁴ In 1689 press-master Walter Preston was convicted of stabbing John Murray in the street after Murray refused to be pressed.¹⁷⁵ Such violence could also break out into full-fledged riots. Studying the last half of the eighteenth century, Nicholas Rogers has found evidence of at least 602 press gang affrays and riots in Britain between 1738 and 1805.¹⁷⁶

While some sailors engaged in violent resistance, others resorted to trickery to avoid being pressed. Ned Coxere managed to elude the press gang by his usual linguistic and sartorial deception. During the first Anglo-Dutch War, the English captured the Dutch merchant ship in which Coxere was sailing. Rather than announcing himself as an English subject, Coxere pretended to be Dutch. He continued the masquerade when he got ashore, posing as a Dutch merchant, wearing Dutch garb, and having a friend act as an interpreter. His act was so convincing that he managed to fool two soldiers looking for recruits who referred to him as “the Fleming on horseback,” and even his own mother who at first failed to recognize him.¹⁷⁷ Coxere’s masquerade was doubly effective because posing as a Dutch merchant concealed both his nationality and his class—the two defining factors in vulnerability to impressment. A major argument against the press gang that gained potency in the eighteenth century was that impressment went against sailors’ rights as freeborn Britons. Reformer James Oglethorpe published an anonymous pamphlet in 1728, advocating reform of the conditions in the Navy. “Why am I shut up in here?” Oglethorpe quoted in the voice of an impressed sailor, “I that am born to be free; are not I and the greatest Duke in England equally free born? Where is the liberty of an

¹⁷⁴ Trial of Robert Blandford, Edmond Dashwood, John Leigh, David Pattison, Thomas Yeomans, 31 August 1688, OB t16880831-5.

¹⁷⁵ Trial of Walter Preston, 3 July 1689, OB t16890703-1.

¹⁷⁶ Rogers, *The Press Gang*, 39.

¹⁷⁷ Coxere, “Adventures By Sea,” FL MS Vol. 281.

Englishman?”¹⁷⁸ This rhetoric of the “free born Englishman” is belied by the fact that class was palpably a defining factor of impressment. While a common sailor could be captured by the press gang, a Duke certainly could not. Englishmen were subjected to a violent military draft because of their status as subjects, but also because of their status as poor or working men.

Sailors were vulnerable to impressment not only in their homeports, but abroad as well. In the 1750s much of the tension between English merchants and the authorities at Livorno related to the Tuscan government’s reticence to enforce the naval or mercantile service of British subjects. The British consul complained that the Tuscan authorities refused to permit English ships “to secure the English Sailors that shall be found straggling there”—part of a policy of neutrality the British felt tacitly favored the French. The British consul even obtained a letter of support from the Spanish consul who asserted the longstanding practice in Livorno of restoring sailors “of their own nation, Deserters, Vagabonds & those not employed in any other Service” to their lawful sovereign.¹⁷⁹ Although sailors might assert their *rights* as “freeborn” Britons, governments collaborated to enforce the *obligations* of subjects to their “lawful sovereign,” even in ports like Livorno—far from the epicenter of British power. And while sailing abroad could mean great flexibility in a mariner’s individual opportunities and allegiances, the power of the English state was still a force to be reckoned with.

British naval impressment swept up not only English subjects, but sometimes anyone serving aboard an English ship. In 1705, pamphleteer and moral reformer Edward Stephens published a tract and sent a letter to the Levant Company about the

¹⁷⁸ James Edward Oglethorpe, *The Sailors Advocate* (London: H. Whitridge, 1728), 13.

¹⁷⁹ “Translation of the Certificate of the Spanish Consul at Leghorn [Edward Silva, Marquis della Banditella]” BL Additional Manuscripts (hereafter Add. MS) 35481 f. 39.

impressment of Greek sailors who served Levant Company ships. Because so many English seamen died or deserted en route to Smyrna and other eastern ports, English merchants often hired Greek mariners to man their ships for their return. Stephens complained that these sailors were often “pull’d and hall’d by the Press-Masters, like Dogs out of the Merchant-Ship and put upon Men of War; that they are kept on Service so long that they have no reasonable Opportunity to see or relieve their Families and Relations.” Stephens complained that many of them left wives and children at home, and since they were “no Subjects of England, but Subjects either to the Turks, or to the Venetians,” they ought not to be impressed.¹⁸⁰ The relative scarcity of “natural born” British subjects living in the Mediterranean meant that it was indeed often impossible to man ships with the legal number of British subjects, and many ships flying an English flag had few if any native Britons, a trend that would intensify with the acquisition of Gibraltar and Menorca.

Privateering

Throughout the eighteenth century the British government outsourced segments of its imperial warfare by issuing letters of marque to private vessels to “annoy the enemy trade.” As David Starkey argues, privateers performed a useful role by capturing enemy ships and providing alternate employment for the merchants whose regular trade had been disrupted by war.¹⁸¹ Privateering could be a profitable enterprise for a sailor, and mariners like Ned Coxere often hoped to “seek for purchase” aboard men-of-war. But

¹⁸⁰ Edward Stephens to Gabrielle Roberts, Deputy Governor of the Levant Company, 19 December 1705, TNA SP 105/109. See also, Stephens Edward, “The case of the poor Grecian seamen” (London, 1705) and Geoff Kemp, “Stephens, Edward (d. 1706),” *Oxford Dictionary of National Biography* (Oxford: Oxford University Press, 2004) (Hereafter ODNB)

¹⁸¹ David John Starkey, *British Privateering Enterprise in the Eighteenth Century* (Exeter: University of Exeter Press, 1990), 59.

privateering also created a complicated relationship between states and subjects. Although these ships sailed under British colors, their crews hailed from all over the Mediterranean and their interests were in turning a profit through the goods they plundered. Most were not chiefly interested in serving the British crown as faithful subjects, and their actions sometimes challenged British sovereignty. On the other hand, the “private” nature and liminal national status of privateering vessels provided sailors and captains more latitude, and also gave the British ministry plausible deniability if privateers ran amok.

English merchant and privateer Fortunatus Wright had a long history of causing trouble for the British government. Wright made a name for himself in the first half of the eighteenth century by getting into trouble with the government of Luca for refusing to surrender his weapons although they were illegal there.¹⁸² In 1747, the Ottoman Porte complained that Wright had seized Turkish goods that were carried in French ships. The Levant Company intervened and obtained a ruling from the government that Turkish property could not be taken as prize, even if it was captured in French ships. Despite pressure from the British ministry, Wright refused to surrender the money he had plundered from the French ship *Hermione*. In 1747 the Privy Council ordered the governors of their Mediterranean colonies to seize Captain Wright in “answer to the Turks who have been injured” for the damage they suffered by his “Misbehaviour.”¹⁸³ In Menorca, copies of the orders were “affixed in the Publick places,” and warrants were sent to the governors of both colonies, the Levant company, and captains of other

¹⁸² Kenneth Breen, “Wright, Fortunatus (*d.* 1757),” *ODMB*.

¹⁸³ “Order to the Governors and Garrison Commanders at Minorca and Gibraltar Concerning Captain Fortunatus Wright and Other Privateers,” 8 September 1747, Huntington Library (Hereafter HL), mssHM 70722.

privateering vessels.¹⁸⁴ Wright was arrested by the Tuscan authorities in December 1747 and spent six months in prison.

Despite censure from the British government, by the Seven Years' War Wright was again crafting plans to privateer. Out of prison on Admiralty bail, he had established himself and his family in Livorno and commissioned a ship that he told the builder he would sail on a merchant mission to Jamaica.¹⁸⁵ By the summer of 1756, however, war had broken out between France and England, and the Tuscan authorities imposed strict limitations on the arms and crew size of any ship outfitted in their neutral port. In June, however, Wright's agent in London obtained a letter of marque for Wright's new ship—the *St. George*.¹⁸⁶ Wright did not, it seems, tell the Tuscan government that he had obtained a letter of marque from the British government, nor did he tell the Admiralty that he was operating out of Livorno—the register of his letter of marque listing his location as Liverpool.¹⁸⁷

In Livorno, Wright enlisted a crew of about 50 people, "Sclavonians, Venetians, Swiss, Danes, English & one Tuscan" to sail in a convoy of five ships to Brazil and then back to the Levant, under the neutral Tuscan flag.¹⁸⁸ "In the grey of the morning" on 26 July 1756,¹⁸⁹ about four leagues from shore, Wright and his convoy redistributed all of their weapons onto the flagship and traded fire with a French vessel before retreating to

¹⁸⁴ Order by John Wynward, "Commander In Chief on the Island of Minorca," 16/27 April 1747, Archivo Histórico de Mahón (Hereafter AM), Real Gobernación (hereafter RG) 116 f. 73; "Order to the Governors and Garrison Commanders at Minorca and Gibraltar Concerning Captain Fortunatus Wright and Other Privateers," 8 September, 1747, HL mssHM 70722.

¹⁸⁵ Kenneth Breen, "Wright, Fortunatus (d. 1757)," *ODNB*.

¹⁸⁶ 10 June 1756, TNA HCA 26/5 f. 44.

¹⁸⁷ 10 June 1756, TNA HCA 26/5 f. 44.

¹⁸⁸ "Translation of the Extract of the Process of Fortunatus Wright of the *St. George* Privateer," BL Add MS 35481 f. 111.

¹⁸⁹ "Extract of a Letter from Sr. Horace Mann to Mr. Fox, Florence July 31st 1756," BL Add MS 35481 f. 41; "Copy of a Letter from Capt. Fortunatus Wright, of the *King George*, Dated Leghorn, August 2," *Universal Magazine of Knowledge and Pleasure*, June 1747-Dec. 1803 19, no. 129 (1756): 86–88.

Livorno. When Wright produced his British letter of marque to the Tuscan authorities, he was accused of abusing the neutrality of the port by privateering under the Tuscan flag.¹⁹⁰ In a published letter to King George, Wright claimed that he had acted in self-defense, only loading all of the weapons onto the flagship when “a xebeck of great force” with “an especial design” to intercept Wright’s convoy sailed toward him.¹⁹¹ According to a statement from the Tuscan court, however, officials claimed that at dawn, Wright had “discovered a Latin Sail & believing it to be a merchant Ship, he took down His Imperial Majesty’s Colours & hoisted those of England, going on to meet the ship, to take it, & encouraging his Sailors to Row.” The Tuscan authorities complained that by flying Tuscan colors, and then attacking a French ship, Wright “made use of them as an Instrument and as a means by which he might surprise the Enemy’s ship” thereby embarrassing the neutral prince of Tuscany.”¹⁹²

In court proceedings, Wright’s advocate claimed that although the other ship was flying French colors, it in fact belonged to two *Tuscan* subjects. Further, the sailors on board the ship were Italian, and, the advocate claimed, the “French” ship had been lying in wait for Wright and his convoy to leave the safety of the harbor so that they might capture them as prize. According to the advocate, Wright and his crew had not attacked a peaceful French vessel, but instead had acted in self-defense against a piratical Italian warship.¹⁹³ Reading between the lines of this exchange, it seems probable that both ships were sailing under false colors in order to act as privateers. Neither ship was exactly what

¹⁹⁰ See BL Add MS 35481, ff. f. 34-54; 56-86; 107-130, 133-152.

¹⁹¹ “Copy of a Letter from Capt. Fortunatus Wright, of the King George, Dated Leghorn, August 2,” *Universal Magazine*, 86–88.

¹⁹² “Translation of the Extract of the Process of Fortanatus Wright of the St. George Privateer,” BL Add. MS 35481 f. 112; 114.

¹⁹³ “Reflections by way of answer to the papers which have been imparted to Sir Horace Mann Bar^t in the name of The Imperial Council of Regency...” BL Add MS 35481, f. 129.

it might seem, and neither were their crews. The Venetian consul complained that “Eighteen Mariners, subjects of the Republick had been engaged for a Mercantile Vessel & obliged afterwards to serve, some being killed and others wounded in the ship St. George, that was become a Corsair.”¹⁹⁴ The British representative in Florence, Horace Mann, replied that, in fact, Wright had planned to go directly to Gibraltar to arm himself for privateering, but was instead forced to defend himself just outside Livorno against the French ship. “Every one knows,” Mann continued, “that in the time of an open war between two Powers, the mariners who enter into the service of either one or other, know that they expose themselves to the Danger of being attacked, & to be obliged to defend themselves.”¹⁹⁵ It seems likely, then, that two largely Italian crews fought against each other under French and English flags.

On one hand, the larger state conflict between England and France subjected individual sailors to the dangers of war—as in the case of the Venetian sailors wounded in the putative crossfire between France and England. But on the other hand, war between state powers allowed the sailors and merchants alike to use *state* relationships for their *personal* gain. Wright (and presumably many of his crew) hoped to use the neutrality of Livorno in order to outfit a privateer and sail under the Tuscan flag in order to avoid immediate attack. The Venetian sailors hoped to gain a good living working aboard an English privateer, while the Tuscan ship owners and their crew used the state of war between France and England as an opportunity to plunder an English ship in the name of France. The malleable national allegiances so long practiced in the Mediterranean, then,

¹⁹⁴ “Translation of M. Tornaquince’s answer to Sir Horatio Mann’s Letter of the 3rd of August relating to the Ship the George commanded by Capt. Wright dated Aug. 6th 1756,” BL Add MS 35481 f. 58.

¹⁹⁵ “Translation of Horatio Mann’s Reply to Mons^r Tronaquinci’s Letter of the 6th of aug:^t relating to Captain wright, dated 7th of aug:^t 1756,” BL Add MS 35481 f. 61-65.

persisted into the eighteenth century, when sailors of many nations might take advantage of the relentless wars for their own monetary gain.

Wright's Livorno incident also highlights the often-arbitrary designation of friend and foe—determined largely by broader political relations between nations. The label of “friend” or “enemy” did not necessarily stem from the nationality or place of origin of early modern mariners themselves, nor that of the captains or owners of a ship. For example, en route to Mallorca, Ned Coxere's ship was chased by three vessels that the captain and crew feared to be Spanish. Instead, they proved to be Turkish men-of-war. Instead of the feared Spanish attack, Coxere and the crew had a friendly exchange because the Ottoman Empire and England were then at peace. In fact, the lieutenant “was a Dover man, an old renegade named Wood, but in Moorish Balam. We parte[d] very good friends, and got home safe for England.”¹⁹⁶ While this encounter ended in friendly relations, a similar encounter with a Turkish ship (similarly with an English renegade captain) in an earlier voyage resulted in Coxere's captivity in North Africa.¹⁹⁷ In both cases the captain's country of birth had been England, but chosen allegiances and larger state conflicts determined the nature of the interaction. While governments, empires, and nations waged war, the peoples subject to those nations made do the best they could, taking advantage of these circumstances to plunder enemy ships, seeking employment in the navy, or avoid conflict by alternately invoking or dissembling their national allegiance—or—as in the case of captives like Lala Bilquis or “renegades” like Wood—even crossing the lines of religious and national identity.

¹⁹⁶ Coxere, “Adventures By Sea,” FL MS Vol. 281.

¹⁹⁷ Coxere, “Adventures By Sea,” FL MS Vol. 281.

THE SEA AND THE LAND: MARITIME POLITICS AND A TERRITORIAL EMPIRE

England's move into the Mediterranean as a colonial power and the proliferation of its naval presence there brought a host of new Mediterranean people under the protection of British colors. With few native Britons to sustain the new possessions, inhabitants of Gibraltar and Menorca were offered some of the rights and protections of British subjecthood in the form of Mediterranean passes and letters of marque. Although these new subjects might not speak English or have "the appearance of the Native English," they would prove crucial in helping to develop and sustain British power in the region. But what would be the nature of that power? Would the British enter the Mediterranean as a commercial empire, making their new possessions centers for free trade? Or would the colonies become naval bases from which to wage wars of imperial competition? British policy in the new colonies would demonstrate a tension between the state's ambitions to promote trade, and their desire to get a leg up in the imperial contests that characterized the eighteenth century. Ultimately, although early efforts to shape their new colonies into Mediterranean-style freeports were largely unsuccessful, these attempts would increase the diversity of those people drawn to the colonies, and consequently of those who might claim the protections of British subjecthood.

Tangier: The First British Mediterranean Colony

England first entered the Mediterranean as a colonial power in 1661, when Tangier became a Crown colony as part of the dowry of Portuguese princess Catherine de Braganza upon her marriage to Charles II. English troops established a garrison there in January of 1661 and by November, Charles declared, "Our City of Tangier is and shall be

a port free to all merchants, as well foreigners as others.”¹⁹⁸ Although the Navigation Acts of the 1650s and 1660s had created a protectionist mercantilist system whereby the English state attempted to promote English trade through the exclusion of competitors, Tangier’s status as a free port signaled England’s interest in engaging in a Mediterranean model of trade based on tolerance and diversity. The “free port” or *protofranca* model became popular in the Mediterranean in the sixteenth century. Although the definition of a free port remained ambiguous and flexible, it generally fell into one of two broad and often overlapping categories: a port city open to merchants of any religion or nationality, or a port which was “duty free” and where goods were exempt from customs taxes.¹⁹⁹ Despite this distinction, in general, a freeport was a place where merchants of any nationality or religion were free to trade on equal terms and where duties were minimal.²⁰⁰ Although common in antiquity, freeports did not emerge again until the sixteenth century, when the Grand Dukes of Tuscany established the most famous early modern free port: Livorno.²⁰¹ Livorno became an important model for “free cities” and, as Corey Tazzara argues, it “came to epitomize both the policy’s advantages and its

¹⁹⁸ The first English forces were sent to Tangier in October of 1661. Troops arrived at Tangier on 30 January 1662 and Charles declared Tangier a Free Port on 16 November 1662. See “An Establishment of the Forces,” 10 October 1661, TNA CO 279/1; E. M. G. Routh, *Tangier: England’s Lost Atlantic Outpost, 1661-1684* (London: J. Murray, 1912), 310; *A Proclamation Declaring His Majesties Pleasure to Settle and Establish a Free Port at His City of Tanger in Africa* (London: J. Bill and C. Barker, 1662).

¹⁹⁹ For a comparison of the Genoese model of an “entrepôt” — “a focal point for gathering goods to be redistributed by Genoese merchants” and the Livornese “emporium” to be “frequented by foreign merchants,” see Thomas Allison Kirk, *Genoa and the Sea: Policy and Power in an Early Modern Maritime Republic, 1559–1684* (Baltimore MD: The John Hopkins University Press, 2012), 155.

²⁰⁰ See Jacques and Philémon-Louis Savary des Bruslons, *Dictionnaire Universel De Commerce: Contenant Tout Ce Qui Concerne Le Commerce Qui Se Fait Dans Les Quatre Parties Du Monde* (Paris: Estienne, 1723), 962. Tazzara argues that most definitions of free ports are overly simplistic and obscure complex and overlapping regulatory systems. See Corey Tazzara, “Managing Free Trade in Early Modern Europe: Institutions, Information, and the Free Port of Livorno,” *The Journal of Modern History* 86, no. 3 (2014): 493–529.

²⁰¹ After the success of Livorno and Genoa between 1650 and 1740, free ports appeared throughout Western Europe and especially around the Italian peninsula including Trieste, Ancona, Naples, Messina, Marseilles, Tangier, Dunkirk, and Altona. By the mid-eighteenth century Atlantic colonies including Martinique, Guadeloupe, Tobago, Jamaica, and Saint-Domingue created free ports. See Tazzara, *Free Trade*, 499; 496; Table 1.

limitations.”²⁰² The city began introducing laws to open trade as early as 1547. In 1593 it introduced “Livornina” reforms that allowed merchants of any religion or nationality to trade, and in 1675 it became a tax-free city for all incoming and outgoing commerce.²⁰³ In 1657, English traveler John Reresby wrote that Livorno was “frequented by merchants from all parts, Armenians, Turks, Jews, Sclavonians...persons of all habits and countries in a manner, and the rather so, that none are here molested for their opinion.”²⁰⁴ By the late seventeenth century, the city was famous for its toleration, its large and active foreign communities, and for its simple and inexpensive customs procedures.

The “free city” hopes for Tangier embodied the tensions between the maritime, commercial, and territorial aims of England’s Restoration monarchy.²⁰⁵ According to the instructions to Tangier’s first governor, it was to serve simultaneously as a navy base, a center for commerce, and as the foundation for a larger English colony in Africa.²⁰⁶ The Earl of Sandwich hoped Tangier would attract trade from around the Mediterranean, and become a base from which England could put whatever conditions it liked “upon all the World, that passe through the Streights.”²⁰⁷ According to Charles II’s 1662 declaration, Tangier’s free port would welcome all vessels excepting any “coming beyond the cape of Good hope,” the English colonies or countries with whom England was at war. It would also charge a small, flat rate for warehousing goods in the city with no additional export

²⁰² Tazzara, *Free Trade*, 496.

²⁰³ Richard S. Thoman, *Free Ports and Foreign-Trade Zones* (Cambridge, MD: Cornell Maritime Press, 1956), 14; Tazzara, *Free Trade*, 496; Kirke, *Genoa and the Sea*, 181.

²⁰⁴ Reresby, *Memoirs and Travels*, 98.

²⁰⁵ See Tristan Stein, “Tangier In The Restoration Empire,” *The Historical Journal* 54, no. 04 (2011): 985–1011.

²⁰⁶ “Commission and Instructions for Henry, earl of Peterburgh, first English governor of Tangier,” 6 September 1661, cited in Routh, E. M. G. “The English at Tangier,” *The English Historical Review* 26, no. 103 (1911): 469.

²⁰⁷ “A coppie of a discourse of Barbary sent his royal highness by my Lord sandwich,” 1662, BL Sloane MS 3509 ff. 25-27.

tax.²⁰⁸ This plan for a Mediterranean-style *portofranca* contrasted with the mercantilist policies England imposed on its American colonies, without abandoning them entirely: any goods exported to England or English possessions had to be sent in English ships manned by English crews. Ships from the American colonies were barred from the Mediterranean world of free trade.

The creation of a civil government in Tangier can be seen as a further attempt to style the new English colony as a different kind of possession than those in North America. In 1668, the English created a charter for Tangier stating that it was to be a ‘free-city’ for all Christians. It allowed foreigners to serve on Tangier’s common council and to hold official positions.²⁰⁹ A charter created a *Court Merchant*—a tribunal for foreign merchants to settle trade disputes that operated according to the *Law Merchant*.²¹⁰ The *Lex mercatoria*, or *Law Merchant* had developed in Europe since the Middle Ages, but had been abandoned in England in favor of the common law. Tangier’s *Court Merchant* was comparable to similar French and Italian courts, and as one Spanish commentator noted, “neither the city of London, with its great emporium of merchandise, nor any other city in the British dominions’ possessed such an institution.”²¹¹ These courts, it was hoped would be important “for the attracting of trade and the more effectual encouragement of merchants and others trading to and from our Port and City of

208 A Proclamation Declaring His Majesties Pleasure to Settle and Establish a Free Port at His City of Tanger in Africa (London: J. Bill and C. Barker, 1662).

209 Charter for the city of Tangier, 4 June 1661, TNA, CO 279/45.

210 Charter for Tangier Court Merchant, 1688, TNA CO 279/10.

211 José Ignacio Martínez Ruiz, “De Tánger a Gibraltar : El Estrecho En La Praxis Comercial E Imperial Británica (1661-1776)” *Hispania: Revista Española de Historia* 65, no. 221 (2005): 1046; Chantal de la Vérone, *Tanger sous l’occupation anglaise: d’après une description anonyme de 1647* (Paris: Geuthner, 1972), 16, 74, as quoted in Tristan Stein, “Tangier In The Restoration Empire,” *The Historical Journal* 54, no. 04 (2011): 999. Records of the Tangier Court Merchant can be found throughout TNA CO 279, especially TNA CO 279/41-44.

Tangier.”²¹² Tristan Stein argues that the creation of this merchant court at Tangier “testified not only to the crown’s commercial aspirations for the city, but also to the extent of the colony’s integration into the culture and political economy of the Mediterranean.”²¹³

Despite the grand schemes to make Tangier into a Mediterranean free port, the dream of a Livorno-style center of diversity and trade was never realized. Instructions to governors alternated between encouraging the settlement and participation of foreign merchants, and warnings to guard against them or expel them outright. In 1664, instructions to Lieutenant-Governor John Fitz-Gerald, ordered that “no more strangers be suffered to inhabit there than will consist with the security of the place; especially you must have a watchful eye over the Jews, if you suffer any.” Fitz-Gerald was to respect the privileges and immunities promised to Catholics under the “first articles,” but he should not suffer “new ones to be admitted in the place of those dying.”²¹⁴ On the other hand, in 1665, instructions to Governor Belasyse, directed him to be “very careful in seeing our proclamation made good declaring Tangier a free port.” The instructions directed that

²¹² Register of the Court Merchant, 4 June 1668, TNA CO 279/41. The Proceedings of the Court Merchant 1668-1679, TNA CO 279/41.

²¹³ Stein, *Tangier*, 999-1000. There is a surprising dearth of secondary source literature on the development and demise “courts merchants” in England. In the medieval period “piepowder” courts were attached to local fairs and markets and had jurisdiction over merchant disputes. Although technically these courts were not abolished until 1977, it is unclear when they actually ceased to meet. It appears that although they existed in the Medieval period, they had disappeared as civil courts and admiralty courts took their place in adjudicating merchant law. William Jones argues that due to a reorganization of English trade beginning in the Tudor period, including the increasing involvement of English merchants in overseas trade and the decreasing number of foreign traders trading directly with England, “courts merchant” disappeared. See Kelly A. De Luca, “Beyond the Sea: Extraterritorial Jurisdiction and English Law, C. 1575-1640,” (PhD diss. New York: Columbia University, 2008), 55-69; William C. Jones, “An Inquiry into the History of the Adjudication of Mercantile Disputes in Great Britain and the United States,” *The University of Chicago Law Review* 25, no. 3 (1958): 450; Stuart L. Sutherland, “The Law Merchant in England in the Seventeenth and Eighteenth Centuries,” *Transactions of the Royal Historical Society* 17 (1934): 149–76.

²¹⁴ “Instructions for Col. John Fitz-Gerald, going to Tangier as lieut.-governor,” 7 June 1664, *Calendar of State Papers, Domestic Series, of the reign of Charles II, Addenda 1660-1685*, F.H. Blackburne Daniell and Francis Bickley, eds. Vol. 28: Addenda 1660-1685 (London: HMSO, 1939), 103.

“entire satisfaction be given to all merchants who shall resort thither,” and that Belasyse should see that “equal justice be administered to them.” The ministry also endorsed his proposal to build Catholic churches “for the satisfaction of those of that profession” as well a synagogue for the Jews.²¹⁵ After the institution of a civil government in 1668, the instructions issued to Governor Middleton claimed that the incorporation of the city was “the most likely Meanes to advance our Free-Port, diminishe our Charge, and invite Inhabitants and Commerce thither: Which were the Only Ends aimed at by us, in possessing that Place.”²¹⁶

Despite these instructions, Tangier remained at its core a military outpost. An important indicator of this reality is that there were twice as many soldiers as inhabitants in the colony. The garrison usually consisted of only 1,200 to 1,400 soldiers, including English, Irish, and Scotch, while there were usually only about 600 inhabitants, including some English merchants and a sprinkling of Portuguese, Spaniards, French, Dutch, Italians, and Jews.²¹⁷ Despite the city’s trade policies, it often had difficulty supplying the garrison, a problem that would reemerge in the eighteenth century, particularly in Gibraltar. Without a treaty with Morocco, the garrison was intermittently attacked by Moroccan troops and English ships were attacked by Moroccan privateers, further exacerbating the problems of sustaining either the town or the garrison. Further, growing fear of Catholicism at home made Tangier’s open and inclusive charter politically suspect.²¹⁸ In 1683 Tangier was evacuated and the fortifications destroyed. The tiny strip

²¹⁵ “Instructions for John, Lord Belasyse, commander-in-chief of the forces in Africa and Governor of Tangier,” 24 February 1665, CSP DOM *Vol. 28: Addenda 1660-1685*, 128.

²¹⁶ “Additional instructions which may bee given to the earle of Middleton,” [1669], TNA CO 279/12 f. 93.

²¹⁷ Routh, “The English at Tangier,” 469, 471.

²¹⁸ Peter Le Fevre, “Tangier, the Navy and Its Connection with the Glorious Revolution of 1688,” *Mariner’s Mirror* 73 (1987): 187–90.

of land surrounded by hostile enemies—a feature that would be recreated in Gibraltar in the eighteenth century—meant that provisioning the garrison and town necessitated a wealth of foreign trade and good diplomatic relations with Morocco that England was never able to muster. After the utter failure of Tangier as either a freeport, a colony, or indeed as a garrison, and as trade in the Mediterranean waned and imperial warfare intensified, the question of whether Britain’s Mediterranean colonies were free ports or garrisons remained.

Gibraltar and Menorca: Garrisons or Freeports?

With the acquisition of Gibraltar and Menorca as new British colonies, the inevitable question arose: would they be Mediterranean-style centers of internationalism and trade in the spirit of Livorno or Genoa, or would they become military garrisons and bases for Britain’s expanding Navy and intensifying fiscal-military state? Queen Anne declared Gibraltar a free port in 1706 in the hopes that merchants and traders might be induced to settle there, attracted by the prospect of supplying the garrison and by broader opportunities for trade in the Mediterranean. Free port status meant that most goods could be shipped into and out of Gibraltar without the payment of additional duties, although port duties and service charges might still be collected.²¹⁹ In Menorca too, the British entertained hopes that it would become an entrepôt of Mediterranean trade. These hopes were boosted by the early decision of the Oxford ministry to grant Mahon free port status in 1712.²²⁰

Although both Gibraltar and Mahon were initially declared freeports, as time

²¹⁹ Stephen Constantine, *Community and Identity: The Making of Modern Gibraltar since 1704* (Manchester: Manchester University Press, 2009), 43.

²²⁰ Argyll to Jurats, 5 December 1712, TNA CO 174/1, f. 1.

went on it became increasingly clear that they would develop primarily into military bases rather than into lively centers of Mediterranean trade. The 4,000 British military men and their families stationed on Menorca remained wary of and separated from the mostly Catholic inhabitants, maintaining friendly if distant relations with the islands' Jewish and Greek Orthodox population. In Gibraltar, a permit system beginning in 1720 restricted the numbers of "foreign workers" and in 1752 regulations by Governor George Bland required that property be sold henceforth only to Protestants.²²¹

It seems that for the most part, free port status was granted to and perpetuated in both colonies specifically to encourage merchants and sailors to help supply the garrisons and develop the possessions into strong, secure, and well-supplied Navy bases, rather than in the pursuit of a Mediterranean entrepôt of free trade. The conflict between free port status and the military garrison reality would haunt Gibraltar throughout the eighteenth century. As late as 1783 residents of Gibraltar complained that although they had been invited to Gibraltar under royal assurances of free trade, Governor Eliott was treating it as a "mere place of arms."²²² The fact that neither colony developed into a Livorno-style free port, however, did not keep them from attracting diverse inhabitants from around the Mediterranean. Indeed the growth of British military power combined with the evolving improvisations of local colonial authorities attracted and established the kind of diverse and pluralistic communities more often associated with an earlier Mediterranean milieu.

²²¹ Stacie D.A. Burke and Lawrence A. Sawchuk, "Alien Encounters: The *jus soli* and Reproductive Politics in the 19th-century Fortress and Colony of Gibraltar," *History of the Family* 6, no. 4 (2001): 535.

²²² Petition from the Committee of Inhabitants of Gibraltar to Lord North, 23 May 1783, TNA CO 91/30; Petition from the Agents of the Inhabitants of Gibraltar to Lord North, 23 October 1783, TNA CO 91/30.

NEW SUBJECTS

Britons in the Mediterranean had practiced flexible allegiances since their introduction into that sea. Although the colonies increasingly developed as garrisons rather than commercial centers, tactics of accommodation prevailed. The unclear and often ad-hoc subjecthood of the residents of these territories was complicated by the fluidity of traditional Mediterranean identities and the inability of existing British subjecthood law to capture the diverse and complex Mediterranean milieu. For the “new subjects” of Gibraltar and Menorca, the developing category of “British subject” became increasingly important as both a shield and a tool. Despite the more complicated conception of subjecthood that the new Mediterranean colonies introduced, Menorcans and Gibraltarians were keen to use their subject status in much the way that seventeenth-century Britons had: to privateer, to trade, and to avoid captivity in North Africa.

When the previous Spanish population fled Gibraltar after the British invasion, the ragtag group of Maltese, Genoese, Jews, Moors, Greeks, Portuguese, and newly imported Spaniards who repopulated it were neither “natives of Gibraltar” nor born on British territory. Complicating the situation further still, Article X of the Treaty of Utrecht explicitly forbade Moors or Jews from living in the town, and forbade any maritime trade with the Spanish mainland. Only 20 miles across the windy straights from Morocco, North Africa became a vital source of food and supplies to support the garrison—things they desperately needed on the infertile and inhospitable rock. Despite the parameters of the treaty and repeated demands from the metropolitan authorities to rid the rock of all Jews and Moors, the realities of life and trade in the Mediterranean made this task impossible. Between 1713 and 1721, British authorities tried again and again to expel Jews from Menorca, wary of their tenuous peace with Spain. However, colonial

governors, aware of the realities of Gibraltar's position in the Mediterranean, and the importance of Jewish trade networks with North Africa and Italy, would expel, as Lieutenant Governor Cotton put it, only "people of no consequence."²²³

Although Cotton tried to attract British Protestant merchants from Cadiz and Malaga to fill the vital trading links of the Jews, even this solution might contradict the treaty, as Gibraltar was to have no overland trade with Spain.²²⁴ By the summer of 1718, however, Spain and England were once again at war. Gibraltar found itself yet again isolated from Spanish supplies, dependent on Moroccan goods, and needing the services of Jewish merchants.²²⁵ The perilous position of the garrison led to a peace treaty with Morocco in 1721. The treaty gave English merchants the right to settle and work in Morocco and "the subjects of the Emperor of Fez and Morocco, whether Moors or Jews, residing in the dominions of the King of Great Britain [...] the same privileges that are granted to the English residing in Barbary." This direct contradiction with the Treaty of Utrecht would vex governors for years to come. But it provided legal bases for Moroccan Jews and Moors to reside in Gibraltar. Just four years later there were already 137 Jews in residence on the rock.

Indeed, as Hannah Weiss Muller points out, the rights, practices, and realities of subjecthood in the Mediterranean colonies were often formed by treaty rather than British case law. Although technically, the tenet of *Jus Soli*—subjecthood by birth on British soil—would exclude inhabitants of Gibraltar and perhaps even those in Menorca born before 1713, the realities of life in the Mediterranean demanded that colonial governors

²²³ Colonel Stanhope Cotton to George Bubb, 24 May (N.S.) 1717, BL Egerton MS 2174, ff. 196-8; Cotton to Bubb, 31 May (N.S.) 1717, BL Egerton MS 2174 ff. 204-205.

²²⁴ George Hills, *Rock of Contention: A History of Gibraltar* (London: Hale, 1974), 228.

²²⁵ M. Benady, "The Settlement of Jews in Gibraltar, 1704-1783," *The Jewish Historical Society of England* 26 (1979).

and other British administrators expand the definition of subjecthood. A 1716 treaty with Algiers avowed that “the island of Minorca, and city of Gibraltar, Are now in His Majesty’s possession and are become part of His Britannic Majesty's dominions [...] every person sailing in ships or vessels, whether Spaniard, English or otherwise, fishing in boats or vessels, living or residing there, shall be esteemed as his natural-born subjects [...] in the same manner, as if they had been born in any other part of the British territories.” This treaty and others like it with North African powers were vital to protecting Mediterranean trade and to the survival of the garrison.²²⁶

In Menorca, the issue of British subjecthood was in some ways more straightforward than in Gibraltar. Because the majority of the inhabitants of the islands had remained after the British invasion, Menorcan’s subject status was more legally clear. While native Menorcans might be British subjects, they might not, in the eyes of some, be *ideal* or even loyal British subjects. A proposal to populate Menorca with Protestant inhabitants complained that “The Spaniards who inhabit it are as...beggarly as litigious and as averse to us our Religion and Industry as they were on the day we took them and whoever has the least Acquaintance with these people must be entirely convinced that they never will change [we cannot] make them in any shape desirable Subjects to Great Britain.”²²⁷

Although the British were never successful in populating Menorca with Protestant inhabitants, they did find that they could gain local allies by encouraging the trade and

²²⁶ “Treaty between Great Britain and Algiers,” 29 October 1716, *Hertslet’s Commercial Treaties: A Collection of Treaties and Conventions, Between Great Britain and Foreign Powers...Vol. 1* (London: Henry Butterworth, 1827), 75; Tito Benady, “The Settee Cut: Mediterranean Passes Issued in Gibraltar,” *Mariner’s Mirror* 47, no. 2 (2001): 283. See also Thomas James, *The History of the Herculean Straights Vol. 11* (London: Charles Rivington, 1771), 387-8.

²²⁷ “A Plan for settling the Island of Minorca with a Sett of Substantial and industrious Inhabitants,” TNA CO 174/1 f. 65

settlement of non-Catholics, particularly Greeks and Jews. In 1744, several Greek merchants petitioned the ministry to become British subjects.²²⁸ It was eventually decided that Greek inhabitants “were to enjoy the same rights as British subjects” in the island, and that they were to have a priest of their own and even their own church.²²⁹ During the Seven Years’ War, between 40 and 50 Greeks joined the army in defending Fort St. Phillip against the French. After the war, Governor Johnston petitioned the ministry that Theodore Alexiano, a prominent Greek merchant who would later become master of the Port of Mahon, should be allowed “some recompense...for his losses and services.” Johnston recommended Alexiano for the title of “Receiver of the Duty called Weights & Measures,” a job that which would bring him around £100 per annum. “It was formerly granted to a native of this Island,” Johnston continued “but as very few of them shewed the least affection to his late Majesty’s person, or government, I am humbly of opinion that Theodore Alexiano is much more entitled, than any of the inhabitants, to this mark of his Majesty’s favour.”²³⁰

Doubts about Menorcans’ loyalty and complaints of their unwillingness to fight during wartime were a common theme in governors’ letters to the ministry. Frustrated in an attempt to recruit Menorcan privateers at the start of the War of Austrian Succession, Governor Anstruther blamed it on Menorcans’ “attachment to the Spaniards, which will ever continue whilst there is such a number of Friars allowed to live in this Island who discourage the People from learning English by which means they might be induced to be

²²⁸ “Representation concerning some Greek Merchants in the Island of Minorca who desire to become his Subjects to his Majesty,” Monson McBladen and Plumer R. Keene to Lord Carteret, 5 July 1744, TNA CO 174/2 f. 1.

²²⁹ Desmond Gregory, *Minorca, the Illusory Prize: History of the British Occupation of Minorca Between 1708 and 1802* (London and Toronto: Associated University Presses, 1991), 133. See also TNA CO 174/4 f. 1, f. 24, f. 26, f. 28, f30, f. 150, f. 154, f. 156, f. 158, f. 160 and f. 162.

²³⁰ Johnston to Halifax 16 December 1763, TNA CO 174/3 f. 46.

better Subjects.”²³¹ Despite Anstruther’s fears, and the fact that few Menorcans chose to take up arms to defend the island from invasion, privateering would become one of the major ways Menorcans would exercise their subjecthood. As British subjects, Menorcans had the right to obtain letters of marque against Britain’s enemies and by the end of the War of Austrian Succession, Menorcan privateers had brought 71 of 287 prizes into Port Mahon.²³² Over the course of British rule, privateering enriched all segments of the population. Chaplain Christophe Lindemann, who served in the garrison from 1775 to 1782, wrote of the privateering industry in Menorca: “the craftsmen earned money by equipping the privateer, the doctor and apothecary by providing medicine, the priest with consecration and intercession, the lawyers in recovering prize-money and in passing sentence.”²³³ So eager were the Menorcans to privateer, that in the early years of the American War, privateers with letters of marque against American and French vessels began illegally taking Spanish prizes as well—actions that played a role in stoking tensions with Spain and eventually bringing them into the war.²³⁴ In 1779, Captain Christopher Villalonga and his privateering vessel *The Ferret*, for example, got into trouble for capturing Spanish ships before any official war between Britain and Spain had been declared.²³⁵

By 1782, 55 Menorcan privateers crewed by 3,000 sailors had taken 268 prizes in

²³¹ Anstruther, Mahon, 8 May 1740, TNA War Office (hereafter WO) 1/294 f. 759.

²³² Andreas Casanovas, *Corsarios Menorquines*, (Palma de Mallorca: Luis Ripoll, 1908), 4.

²³³ C. F. H. Lindemann, *Geographische und statistische beschreibung der insel Minorka* (Leipzig: Weygendschen Buchandlung, 1786), 68.

²³⁴ Weymouth to Murray, 22 December 1778, TNA CO 174/11 f. 197. “You will no doubt have proceeded in the Courts of Admiralty for the condemned of the Prizes taken by the Privateers from the Island under your command and followed the usual course in matter of this kind. Representations have been made by the court of Spain of insults and injuries comitted by the Minorqueen Privateers to their Territory and Subjects.”

²³⁵ Murray to Weymouth, 17 March 1779, and Murray to George Dunant, 17 March 1779, TNA CO 174/12 f. 83; f. 85

the course of the war.²³⁶ The French suffered most, losing 115 ships. Other prizes came from the Netherlands, Sweden, Denmark, Genoa, Leghorn, Venice, and Spain.²³⁷ Although Spanish losses were not as heavy as those of other nations, those losses were perhaps more painful because their source was Spain's former subjects—subjects who lived in what the Viceroy of Mallorca bitterly referred to as a “nest of robbers.”²³⁸

As I will discuss in Chapter 4, the fact that many Menorcans chose to sail on board French privateers when British letters of marque were unavailable, only provided support to critics' claims that Menorcans would never be loyal subjects.²³⁹ In 1778, Menorca's Governor James Murray glumly conceded that it was “now too late to think of a Minorqueen Militia.” Since Spain had joined the war, he would not be able to get any volunteers, and “to press a number of them into the fort will answer little purpose; indeed such men will do more harm than good...”²⁴⁰

If Menorcans were reluctant to join the British military, they vociferously claimed their rights to protection from attack by North African privateers. Both Menorcans, and Gibraltarians, however, were often accused of abusing their privileges as British subjects by employing foreign seamen, or illegally selling their passes to foreign ships. In 1724, the governor of Menorca instituted a new set of rules for issuing Mediterranean passes to Menorcan mariners. The governor issued the regulations because “some Minorcan

²³⁶ Note on Corsairs armed in Menorca and of Prizes during the War, AM/U 284.

²³⁷ Amador Mari Puig, “Cors i comerç a Menorca: L comercialització de les preses (1778-1781)” in Gonçal López Nadal, *El comerç alternatiu, corsarisme i contraban (S. XV-XVIII)* (Palma: Conselleria de Cultura, Educació i Esports, 1990), 203.

²³⁸ Marques de Solerich to Floridablanca, 1780; Solerich to Army and Navy ministers, 1781 in José Luis Terrón Ponce, *La reconquista de Menorca por el duque de Crillon, 1781-1782*, (Mahón: Museo Militar de San Felipe, 1981), appendix 4; 2.

²³⁹ See for example, George Bubb's claim in 1717 that “the People of Minorca still look upon themselves as subjects of Spain,” Bubb to Methuen, 17 April (N.S.) 1717, BL Egerton MS 2174 f. 161.

²⁴⁰ Murray to Weymouth, 20 March 1778, TNA CO 174/11 f. 37.

Patrons have shewn so little regard to their Oathes & obligations taken for the King's Passports which secure them from Turks & Moors that they have not scruples to act counter to them by employing Foreigners in their vessels." Under the new rules, captains must bring their crews before the Vice-Admiralty Court before each voyage "in order that everyone of them may make Oath that he is a British Subject."²⁴¹ A stream of new regulations on the issue of Mediterranean passes over the course of the eighteenth century had little effect on the problem. In 1765, the British consul in Genoa wrote, in hyperbolic frustration, "I am persuaded that at this time above one third of the Trade in the Mediterranean under the English Colours is carried on by Italians and other Foreigners no way connected with England."²⁴² In truth, while the unstable legal status of the colonies' inhabitants made defining British subjecthood difficult, governors tended toward employing a broad definition of subjecthood in protecting mariners. In 1750, Governor Blakeney wrote to the Secretary of State, defending his decision to issue a pass to a Menorcan ship that the Tunisian authorities complained was crewed almost entirely by Italians. He explained that the three Italians to whom the pass had been issued "had long been Inhabitants [and] had sailed under British Colours in the late war." Further, he wrote, "the Number of ships belonging to his majesty's trading subjects of this Island are so much decreased of late years, that there is not a sufficient Number of Sailors, Natives to navigate them so that they are under a necessity of taking Foreigners as part of their Complement." Finally, defining who was, and who was not considered a British subject on the island was complicated by the fact that "foreign Mariners frequently marry with natives of this Island, which their Church will not refuse them, whereby they claim a

²⁴¹ "Given in Mahon the 30th November 1724 by the Governor's Command Henry Crofton," TNA CO 174/1 f. 96.

²⁴² Charles Hutchinson to Thomas Harrison, 7 September 1765, TNA Admiralty (hereafter ADM) 1/385.

privilege of becoming Denizens and His Majesty's Subjects, which by the Laws of the Island, I find they are intitled to."²⁴³

While the Governors of Gibraltar and Menorca frequently argued for an expansive definition of subjecthood for their seafaring inhabitants, the unstable nature of British power in Menorca made subjecthood tenuous as well. In 1756, the British lost Menorca to the French, and when British envoy Hyde Parker traveled to Morocco to negotiate the release of British captives, four Menorcans lost their subject status, seemingly overnight. Parker argued that the sailors were now subjects of France, and thus ineligible for redemption under British treaty. The Moroccans, however, countered that as they had been British subjects when they had been captured, the British ought to redeem them.²⁴⁴ While subjecthood was a legal mantle that might be donned for protection, it might also be taken away as the fickle boundaries of empire expanded and contracted.

CONCLUSIONS

From England's entry into the Mediterranean in the sixteenth century, both English mariners and the British government cultivated an adaptability that allowed subjects of a weak state to survive in the multicultural Mediterranean world. Britain's development as a major military and imperial power, however, did not result in the British state or its subjects abandoning this adaptability. Flexibility continued to prevail in the eighteenth century, as Britain's military strength grew. However, the nature of that flexibility transformed. Dreams of a British entrepôt of trade in the Mediterranean morphed into the desire to develop diversely populated Mediterranean colonies in the pursuit of naval security rather than free trade. With no real British-born "colonists" and

²⁴³ Blakeney to Bedford, 14 January 1750/1, TNA CO 174/2 f. 212.

²⁴⁴ Consul Popham to Pitt, 30 April 1759, TNA SP 71/20, f. 231.

only small garrisons of soldiers, the diverse populations of Gibraltar and Menorca became “new subjects,” essential to supplying the garrisons. Not only would Menorcans and Gibraltarians become British subjects, but increasingly Catalans, Spaniards, Italians, Greeks, Jews, and others also received many of the protections of British subjecthood. While seventeenth-century English sailors like Ned Coxere performed different national allegiances by donning cultural and linguistic disguises, eighteenth-century mariners donned and shed the legal status of “subject” more formally through letters of marque, Mediterranean passes, and legal arguments. Indeed, language, culture, or dress were rapidly becoming unnecessary for the performance of subjecthood. The complex and expert performance of identity and allegiance sailors like Coxere practiced in the seventeenth century faded in the face of a subjecthood shaped by treaty, local improvisation, and as I will discuss in further detail in Chapter 4, the development of documentary identification. By the eighteenth century, British subjects might speak no English whatsoever, and it was their ability to prove their usefulness in maintaining the British garrisons that cemented their rights as subjects. Documents like letters of marque or Mediterranean passes, rather than language or dress proved those rights. Despite the importance of documentary subjecthood that the new colonies introduced, Menorcans and Gibraltarians were keen to use their subject status in much the same way that seventeenth-century Britons had: trading, privateering, and avoiding slavery in North Africa. However, while in the seventeenth century, adaptability helped English sailors survive and thrive in a world in which the English state was weak, in the eighteenth century, it helped Britain’s new Mediterranean subjects navigate the violent imperial wars that emerged in the face of growing British military *strength*. As the British offered

the rights of subjecthood to the many diverse inhabitants, British *subjecthood* rather than identity became a flexible tool Mediterranean peoples might deploy to survive in a dangerous world.

Chapter 2. Rule By Treaty: Limited Sovereignty and Expanding Subjecthood

Empires were not built solely by military conquest; they were often constructed and shaped by treaties. As Saliha Belmessous argues, “treaties were powerful instruments that Europeans used to advance their interests, create new settlements, and eventually appropriate much of the globe.”²⁴⁵ When the Treaty of Paris concluded the hostilities of the Seven Years’ War in February 1763, it returned many of the captured territories to their previous owners and redistributed huge swaths of territory between European monarchs. It also shaped and constrained the nature of rule in those territories. In the treaty, George III pledged to protect freedom of worship for “his new Roman Catholick subjects” in former French territories like Quebec and Grenada, a freedom not granted in England itself.²⁴⁶

The Seven Years’ War is often heralded as a watershed moment in British imperial ascendancy, and a moment when Britain suddenly gained a large population of subjects who were neither “British” nor Protestant. Historians have argued that the enormous territory granted to Britain by the Treaty of Paris fundamentally changed the nature of both the British Empire and of British subjecthood. As Peter Marshall points

²⁴⁵ Saliha Belmessous, *Empire by Treaty: Negotiating European Expansion, 1600-1900* (Oxford: Oxford University Press, 2014), 6.

²⁴⁶ *The definitive Treaty of Peace and Friendship between his Britannick Majesty, the Most Christian King, and the King of Spain. Concluded at Paris the 10th day of February 1763.* Article IV: “His Britannick Majesty, on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will in consequence give the most precise and most effectual orders, that his new Roman Catholick subjects may profess the worship of their religion, according to the rites of the Romish Church, as far as the laws of Great Britain permit.” Article XX: Grant to the inhabitants of “Florida, with Fort St. Augustin, and the Bay of Pensacola, as well as all that Spain possesses on the continent of North America, to the East or to the South East of the river Mississippi...the liberty of the Catholick religion; he will, consequently, give the most express and the most effectual orders that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit.”

out, “Victory in the Seven Years War...meant that the British now ruled great extents of territory with subject populations of Native Americans, French Canadians, and above all, Indian...” none of whom were Protestant, British or, when gauged against the ideal of the “freeborn Englishman,” free.²⁴⁷ Hannah Weiss Muller argues that the 1763 Treaty of Paris “signaled a moment when...alternative definitions of subjecthood were proposed and then embraced,” not only by new subjects, but also by colonial administrators.²⁴⁸

Although the Treaty of Paris granted enormous territorial concessions to Britain and added Catholic subjects to the empire, it was not, in fact unique in the history of the British Empire. Half a century before, the 1713 Treaty of Utrecht granted Britain new territories in North America, the Caribbean, and the Mediterranean. And like the Treaty of Paris, the Treaty of Utrecht not only granted Britain rule over a significant population of new “foreign” subjects, it also protected the rights of Catholics.²⁴⁹ British imperial policies in these new territories were not, therefore, purely the product of British law or culture, but were instead shaped and constrained by treaty. The importance that treaties played in British imperial policy is, for example, acutely demonstrated by the English conquest and colonization of Ireland. Subjugated by military and political domination rather than by a treaty with a sovereign state, the legal rights of Catholics in Ireland were

²⁴⁷ Peter Marshall, *The Making and Unmaking of Empires: Britain, India, and America* (New York: Oxford University Press, 2005), 7.

²⁴⁸ Hannah Weiss Muller, “Bonds of Belonging: Subjecthood and the British Empire,” *Journal of British Studies* 53, no. 1 (January 2014): 29–58.

²⁴⁹ Article XIV of *The Treaty of Peace and Friendship between the Great Britain and France, 31 March / 11 April 1713*, granted anyone who remained in territories ceded by the French to the British the right to “enjoy the free exercise of their religion, according to the usage of the church of Rome, as far as the laws of Great Britain do allow the same.” Article X of *Treaty of Peace and Friendship between the Great Britain and France concluded at Utrecht the 2/13 Day of July 1713* promised catholic inhabitant of Gibraltar that “the free exercise of their religion shall be indulged to the Roman Catholic inhabitants. In Menorca, the treaty promised “the free use of the Roman Catholic religion shall be permitted: and measures shall be taken for preserving the aforesaid religion in that island, provided the same be consistent with the civil government and laws of Great Britain.”

even more severely curtailed than in England. Irish Catholics could not legally own property, inherit land, or join the army until 1778.²⁵⁰ In contrast, Menorcan Catholics were allowed to keep their lands, titles, and estates, as well as their ecclesiastical courts and traditional civil government. Treaties, then, not only added territory to the empire, but also shaped the nature of British rule in new imperial domains.

Peace treaties were not the only legal agreements important to empire building. Commercial treaties were also vital to the growth and prosperity of the British Empire. In the Mediterranean, treaties with North Africa had been in place since the seventeenth century and served a dual function. These “Treaties of Peace and Friendship” contained both trade agreements and peace accords that protected British shipping from privateers who, without such treaties, were free to capture merchant vessels, and to enslave or ransom British sailors. In 1713, the Treaty of Utrecht itself made continued peace and commercial treaties with North Africa still more important. The British would need to protect not only the ships that traded goods between London and the Levant, but also the local shipping that sustained the new towns and garrisons they had acquired by the Treaty of Utrecht. Further, Article X of the treaty forbade overland trade between Gibraltar and Spain. Resource-poor Gibraltar would have to be almost exclusively provisioned by ship, making the effective protection of vessels supplying that garrison essential to its survival.

However, treaties with North Africa would also prove to be problematic for relations between Britain and Spain. At war with various Islamic powers since the Umayyad conquest of Iberia in the eighth century, Spain had explicitly limited British

²⁵⁰ Although the Treaty of Limerick of 1691 granted Catholics the same freedom rights as under the reign of Charles II and allowed the supporters of James to keep their estates, the fact that the treaty was made with a defeated army, rather than a sovereign state, and that the English (and Irish Protestants) continued to dominate the Parliament meant that the treaty was quickly broken. For reforms see the Papist Act of 1778.

contact and collaboration with North Africa in the Treaty of Utrecht. Although the treaty acknowledged that according to Britain's existing commercial treaties with North Africa, "British subjects cannot refuse the Moors and their ships entry into the port of Gibraltar purely upon the account of merchandising," it also stipulated that "no refuge or shelter shall be allowed to any Moorish ships of war" in any of the harbors of Gibraltar or Menorca.²⁵¹ Which ships exactly should be considered "ships of war" and in what circumstances Menorca and Gibraltar should allow North African ships into their harbors would soon become a matter of contention between Spain and Britain.

The Treaty of Utrecht posed another conundrum for British relations with North Africa when it banned all "Jews" and "Moors" from Gibraltar—the very people who might help develop essential maritime trade networks with friendly Mediterranean states. Although in general, Britain heeded the directive to respect the rights of Catholics in their new Mediterranean colonies, the trade limitations imposed by the Treaty of Utrecht and the requirements of supporting their new garrisons meant that they increasingly ignored the prohibition of "Jews and Moors" in Gibraltar. In fact, the embargo on overland trade with Spain also made Britain's treaties with North Africa essential not only to protect the ships provisioning the new colonies, but also to cultivate trade with the Barbary Coast.

Many historians have argued that Europeans did not value the treaties they signed with non-Europeans in the same way that they valued the treaties they made with each other.²⁵² Anthony Anghie argues that by the nineteenth century in particular, "The colonial confrontation...was not a confrontation between two sovereign states, but rather between a sovereign European state and a non-European society that was deemed by

²⁵¹ Article X, Treaty of Utrecht. See also Article XI.

²⁵² Belmessous, *Empire by Treaty*, 5; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2007), 5.

jurists to be lacking in sovereignty—or else, at best partially sovereign.”²⁵³ But was there such an imbalance in perceived sovereignty in eighteenth-century relations between Britain and North Africa or the Ottoman Empire? Although Catholic states such as Venice and Genoa had been making treaties with the Ottoman Empire since the fourteenth century, by the beginning of the seventeenth century, Protestant Europe was largely opposed to alliances with “infidel rulers,” a position that would soon change.²⁵⁴ England was among the first to eschew this principle, making a treaty with the Ottoman Empire in 1580, and maintaining a close diplomatic relationship with Morocco during Elizabeth’s reign. The Dutch, too, began making treaties both with North Africa and with South East Asian rulers in the early 1600s, and, as Arthur Weststeijn argues, Dutch treaties with non-European rulers were, in fact, the basis of their colonial development.²⁵⁵ Fittingly, the Dutch jurist Hugo Grotius argued that such treaties were morally and legally acceptable. In his 1608 *Mare Liberum*, Grotius argued that making treaties with non-Christian peoples was consistent with both natural and divine laws.²⁵⁶ By the middle of the eighteenth century, treaties between European and non-European nations had been embraced throughout Europe.²⁵⁷ In 1758, the Swiss jurist Emer de Vattel wrote that “The law of nature alone regulates the treaties of nations: the difference of religion is a thing absolutely foreign to them. Different people treat with each other in quality of men, and not under the character of Christians, or of Mahommmedans.”²⁵⁸ Indeed not every

²⁵³ Anghie, *Imperialism*, 5.

²⁵⁴ Belmessous, *Empire by Treaty*, 3.

²⁵⁵ Arthur Weststeijn, “‘Love Alone if Not Enough’ Treaties in Seventeenth-Century Dutch Colonial Expansion,” in Belmessous, *Empire by Treaty*.

²⁵⁶ Hugo Grotius, *Mare Liberum* (New York: Oxford University Press, 1916), 5-6.

²⁵⁷ Belmessous, *Empire by Treaty*, 3.

²⁵⁸ Emer de Vattel, *Law of Nations or Principles of the Law of Nature applied to the Conduct and Affairs of Nations and Sovereigns* (Philadelphia: Johnson & Co., 1856), 195.

encounter between Christian and non-Christian states was a colonial encounter, and while Britain struggled for imperial ascendancy, the Ottoman Empire, and then individual North African states, would become important allies. By the eighteenth century, the Treaty of Utrecht and the new colonies in the Mediterranean made cooperation with these “infidel” states even more important.

While the Treaty of Utrecht constrained British sovereignty in the new colonies, treaties with North African states began to expand the boundaries of British subjecthood itself. Within the maritime milieu, the number of people “considered and esteemed as British Subjects” grew in direct response to the limits to British sovereignty on land. Through decrees from London, local compromises, and a series of treaties with North African states, the British extended the protections of British subjecthood not only to native-born Menorcans or Gibraltarians, but to anyone who could help protect and sustain the colonies—regardless of religion or place of birth. By 1760, a treaty with Morocco stipulated that not only those born in Gibraltar or Menorca, but indeed *natives of any country* who lived “under the English Government” in Gibraltar or Menorca should be protected at sea. These natives of Spain, Genoa, the Greek Isles, or Portugal (and even Holland or France) would, according to the language of the treaty “*be considered and esteemed as English natural subjects.*”²⁵⁹

Taken in conjunction, the Treaty of Utrecht and the long string of treaties with North Africa significantly changed the nature of the British Empire and British

²⁵⁹ Article XIII Treaty between Great Britain and Morocco, Signed at Fez 28 July 1760. “No Spaniard, or native of any other country, whether Captains, mariners, fishermen, or other persons, under the English Government in the City of Gibraltar, (or in the Island of Minorca, when it shall again be in possession of the English) shall be seized, or molested, navigating under the English Flag, with passports from the Governor or Commander in Chief of those places, and that they shall be considered and esteemed as English natural subjects.”

subjecthood. Not only did these treaties force Britain to consider how to contend with a large population of Catholic and other non-Protestant subjects, but they also encouraged Britain to recognize other “aliens” as protected, even essential British subjects. Long before the 1760s, treaties with North Africa explicitly conferred subjecthood on a broad spectrum of Mediterranean peoples; well before the acquisition of Quebec or Bengal, British treaties affirmed the subject status of Catholics, Jews, Greek Orthodox, and Muslims in the Mediterranean.

TREATIES WITH THE OTTOMAN EMPIRE

Before England had ever considered treating with North Africa, the greatest power in the Mediterranean region was the Ottoman Empire. English desire for direct trade with the Levant would draw them into direct diplomacy with this formidable Muslim realm. Trade treaties between the Ottoman Empire and Christian Europe began in the fourteenth century when the sultan granted “capitulations” or *ahdname* to Genoa—trading privileges and protections for Genoese subjects living in or traveling through the empire.²⁶⁰ As the Ottoman state expanded, Venice and Florence received similar rights.²⁶¹ By the sixteenth century, Western European states began to jockey for trading privileges: France received *ahdname* in 1569, England in 1580, and the Dutch in 1612.²⁶²

For England, the Ottoman Empire was to become an important ally. As the balance between Catholic and Protestant powers in Europe became a persistent concern,

²⁶⁰ J. C. Hurewitz, *The Middle East and North Africa in World Politics: A Documentary Record*. 2d ed., Vol. 1 (New Haven: Yale University Press, 1975), 1.

²⁶¹ Hurewitz, *Middle East and North Africa*, 1.

²⁶² Hurewitz, *Middle East and North Africa*, 2. France negotiated a trade agreement with the Ottoman Empire in 1536, although it was not ratified until 1569. For the text of the French treaty see E. Charrière (ed.), *Négociations de la France dans le Levant Vol. I* (Paris: Imprimerie Nationale, 1848), 283. On the controversy over the first French treaties, see J. Matuz, ‘A propos de la validité des capitulations de 1536 entre l’empire ottoman et la France’, *Turcica* XXIV (1992), 183–192.

and as England's involvement in global commercial and imperial competition expanded, the nation would find itself increasingly aligned and entangled with Muslim states. Goran V. Stanivukovic argues that as "the only real empire in the sixteenth-century Mediterranean," the Ottomans could help tiny England battle older and more established maritime powers such as Spain, Italy and France for military and commercial influence.²⁶³ As Stanivukovic reminds us, Ottoman engagement of the Spanish Navy in the Mediterranean prevented the full fleets of the Spanish Armada from sailing for England in 1588.²⁶⁴

Unlike bilateral treaties in which two states agreed on provisions that could not be unilaterally revoked or altered, *ahdname* were granted by the Sultan as an imperial favor. They were not created by threats of war or aggression, and were "not regarded as a formal alliance," but rather as a unilateral and "convenient instrument of policy" that the Porte might use to promote European trade.²⁶⁵ However, Maurits H. van den Boogert has pointed out that although some portrayed them as unilateral capitulations, the privileges given to the European mercantile communities were granted on the premise that recipients of these imperial favors would maintain peaceful relations with the Porte and its subjects.²⁶⁶

This capitulation system not only provided foreign merchants with fixed duties at Ottoman ports; it also provided a wide array of legal protections. Because Ottoman law

²⁶³ Goran V. Stanivukovic, "Introduction: Beyond the Olive Trees: Remapping the Mediterranean World in Early Modern English Writings" in *Remapping the Mediterranean world in Early Modern English Writings* (London: Palgrave Macmillan, 2007), 5.

²⁶⁴ Stanivukovic, *Remapping the Mediterranean*, 5.

²⁶⁵ Thomas Naff, "The Ottoman Empire and the European States System," in Hedley Bull and Adam Watson, eds., *The Expansion of International Society* (Oxford and New York: Clarendon Press; Oxford University Press, 1984), 148.

²⁶⁶ Maurits H. van den Boogert, *The Capitulations and the Ottoman Legal System Qadis, Consuls, and Beraths in the 18th Century* (Leiden; Boston: Brill, 2005), 19.

protected only Ottoman subjects, any foreigner whose nation had not been granted *ahdnames* had no legal protection when traveling through or residing in the Ottoman Empire. Aside from capping duties, the *ahdnames* guaranteed the protected foreign subjects free passage by land or sea throughout the empire, freedom of worship, and freedom from slavery. It placed them under the legal jurisdiction of their consul at Istanbul, making them largely immune from Ottoman law.²⁶⁷ Merchants of nations without capitulations had to operate under the flag of a nation that did have formal relations with the Porte, making the *ahdnames* a prerequisite for international trade in the Levant.²⁶⁸

1536-1713 TREATIES WITH NORTH AFRICA

Treaties With the Ottoman Regencies

Like all capitulations to European powers, England's treaty with the Ottoman Empire promised that Ottoman ships would not give "the least injury or molestation" to English vessels, and that all Englishmen enslaved within the Ottoman Empire "if they appear to be true subjects of England," would be "restored to liberty."²⁶⁹ Despite these articles, it soon became clear that the Ottoman capitulations did not reliably protect European shipping from North African privateers. As English trade in the Mediterranean

²⁶⁷ Boogert, *The Capitulations and the Ottoman Legal System*, 32. See also Article 37, *The Capitulations and Articles of Peace Between the Majesty of the King of England, Scotland, France, and Ireland &c. and the Sultan of the Ottoman Empire 1661*: "The English merchants, & all under their banner shall & may safely, & freely trade, & negotiate in Aleppo, Cairo, Scio, Smirna & in all parts of our dominions, & according to our ancient customes of all their merchandize, they shall pay three in the hundred for custome, & nothing more," in Paul Ricaut, *The Capitulations and Articles of Peace Betweene the Majestie of the King of England, Scotland, France, & Ireland &c. and the Sultan of the Ottoman Empire* (Constantinople: Abraham Gabai Chafnahat, 1663), 11.

²⁶⁸ Boogert, *The Capitulations and the Ottoman Legal System*, 24.

²⁶⁹ "Treaty of Commerce made and concluded between Mahomet IV Sultan of the Turks, and Charles II King of Great Britain, whereby the ancient Agreements made in the Reigns of Queen Elizabeth and of King James I and Charles I are repeated and confirmed Article by Article, with a considerable Addition," September 1675, Article I; Article XII in Charles Jenkinson, *A Collection of All the Treaties of Peace, Alliance, and Commerce, Between Great-Britain and Other Powers Vol. 1* (London: J. Debrett, 1785), 228.

expanded, North African privateers became an increasing threat. North African corsairs had traditionally used galleys rowed by slaves to assault merchant ships—large vessels that confined them to the Mediterranean. In the seventeenth century, however, modern sailing vessels enabled them to range further afield, attacking ships off the Atlantic coasts of Europe and even reaching as far as Iceland.²⁷⁰ Between 1613 and 1621, Algerian privateers captured 447 Dutch, 193 French, 120 Spanish, 60 English, and 56 German ships.²⁷¹ During the 1620s, corsairs were active in the English Channel and along the southern coasts of England and Ireland. Algerian privateers even conducted raids against coastal villages near Devon and Cornwall.²⁷²

By the seventeenth century, the rogue privateers who attacked European shipping in contravention of the Ottoman capitulations were largely based in the Maghreb. The “Ottoman Regencies” or *ocaklar* (garrisons) of Algiers, Tunis, and Tripoli had come under Ottoman influence in the sixteenth century. They had done so, however, for mutual benefit, rather than by military or political domination. Through distance and political significance they were able to maintain a level of distinct autonomy—a fact that was central to the Porte’s inability to fully control their privateering activities.²⁷³

Key to the development of the Regencies’ relationship with the Ottoman Empire was a shared goal of thwarting Christian aggression against Muslim ships and lands. After the Spanish conquest of Muslim-held Granada in 1492, Spain’s *Reconquista* had evolved into a policy of military conquest of North Africa, and an ongoing struggle for

²⁷⁰ Julian S Corbett, *England and the Mediterranean, 1603-1713*, vol. I (London, New York & Bombay: Longmans, Green & Co.), 10-20.

²⁷¹ J de Courcy Ireland, “The corsairs of North Africa,” *Mariner's Mirror*, 62 (1976), 273.

²⁷² Almost all the inhabitants of the village of Baltimore, Ireland, were taken in 1631. Other attacks on coastal villages in Devon and Cornwall were attacked as well. See, Robert Higham, *Security and Defence in South-West England Before 1800* (Exeter: University of Exeter Press, 1987), 69-70.

²⁷³ Hurewitz, *The Middle East and North Africa*, 20.

supremacy in the Mediterranean. Through war, intimidation, and negotiation with local leaders, the Spanish began establishing fortified garrisons at strategic ports along the North African coast.²⁷⁴ Along with Spanish aggression, other Christian groups such as the Order of St. John of Jerusalem had been operating a lucrative corsair business in the central and eastern Mediterranean since the fourteenth century. By the early sixteenth century the Order of St. John was issuing privateering commissions to individual knights to attack Muslim shipping and take captives—an extension of the medieval holy war that conveniently allowed the order to retain three-fourths of a privateer's profits.²⁷⁵ Spanish aggression, the ongoing threats of Christian corsairs, and the inability of local North African leaders to defend against Spanish occupation made many in the area ready to welcome outside help, and made the Porte keen to gain territory from which to develop a new Western theater of war against Hapsburg Spain.²⁷⁶

In the early years of the sixteenth century, two brothers from the Greek island of Lesbos rose as dominant figures in the fight against Spanish ambitions in North Africa. Oruç and Hızır, known as the “Barbarossas” because of their red beards, were the sons of a retired Turkish cavalryman turned pottery merchant.²⁷⁷ Returning from a trade mission for his father's business, Oruç was captured by corsairs commissioned by the Knights of St. John, and was set to work as a galley slave. When he was finally ransomed, he took to privateering, basing himself first at Antalya on the Turkish coast, and then, with his

²⁷⁴ Spain occupied Melilla in 1497, Mers el-Kébir in 1505, Peñonde Velez in 1508, Oran in 1509, Mostaganem, Tlemcen, Ténès and the Peñon of Algiers in 1510. See Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II* (London: Collins, 1972), 119.

²⁷⁵ Paul Cassar, “The Maltese Corsairs and the Order of St. John of Jerusalem,” *The Catholic Historical Review* 46, no. 2 (July 1, 1960): 137–56, 141.

²⁷⁶ Jamil M. Abun-Nasr, *A History of the Maghrib* (Cambridge: Cambridge University Press, 1975), 162.

²⁷⁷ Francisco López de Gómara, “Crónica de los Barbarrojas,” *Memorial histórico español, colección de documentos, opúsculos y antigüedades* (Madrid: la Real Academia de la Historia, 1853): 351–539.

younger brother Hızır, at Tunis. From there, the two organized privateering vessels that attacked merchant shipping and waged *jihad* against Christian corsairs such as the Knights of St. John.²⁷⁸

Soon, Oruç and Hızır began to combine their lucrative privateering operation with a war against Spain, often working in partnership with local North African leaders to repel Spanish attacks. In 1516 the brothers moved their base of operations to Algiers, and Oruç extended his authority and political ambitions westward, leading assaults on territories where local leaders had acquiesced to Spanish rule.²⁷⁹ In 1517, Oruç captured the Spanish-held Tlemcen, an important religious center west of Algiers. When Oruç died in the ensuing Spanish siege, Hızır was left in charge of his growing but fragile empire. Believing that continued war against Spain would require outside assistance, Hızır asked Istanbul for military aid.²⁸⁰ In return, he offered to bring the Sultan, Selim I, “all, or the greatest part of Barbary.”²⁸¹

Hızır’s proposition was an alluring prospect for Selim and the expanding Ottoman Empire. In 1517, the Ottomans had conquered Egypt, but Hızır’s offer presented Selim with the opportunity to expand farther westward into the Mediterranean. In return for Ottoman troops that would reinforce Hızır’s coastal garrisons, Selim accepted Algiers as a *sanjak*, (Ottoman province) and appointed Hızır as its governor-general or

²⁷⁸ Adrian Tinniswood, *Pirates of Barbary: Corsairs, Conquests and Captivity in the Seventeenth-Century Mediterranean* (New York: Riverhead Books, 2010), 19.

²⁷⁹ Joseph Morgan, *A Complete History of Algiers: To Which Is Prefixed an Epitome of the General History of Barbary from the Earliest Times : Interspersed with Many Curious Remarks and Passages, Not Touched on by Any Writer Whatever* (London: J Bettenham, 1731), 258-263.

²⁸⁰ Abun-Nasr, *History of the Maghrib*, 162-163; Trudy Ring, Noelle Watson, and Paul Schellinger, *International Dictionary of Historic Places Volume 4: Middle East and Africa* (Chicago: Fitzroy Dearborn Publishers, 1996), 54.

²⁸¹ Morgan, *A Complete History of Algiers*, 259.

beylerbeyi.²⁸² With imperial backing, Hızır recaptured Tlemcen, consolidated his influence along the North African coast, and turned Algiers into an impressive naval base. By 1529 he commanded a fleet of eighteen galleys, and had captured the important fortress of El Peñón in the mouth of Algiers harbor.²⁸³ In 1533 Sultan Sulaiman I, concerned about the Spanish and Genoese threats in the Mediterranean, summoned him to Istanbul and appointed him Admiral of the Ottoman navy (*kapudanpasha*) and chief governor of North Africa. Sulaiman gave Hızır the honorary title *Hayrettin* “The Goodness of the Faith,”²⁸⁴ and charged him with building the Ottoman fleet.²⁸⁵

Despite the territorial and naval incorporation of North Africa into the Ottoman Empire, Barbary corsairs and the Porte had fundamentally different agendas.²⁸⁶ For Hayrettin Barbarossa, the imperial title of *beylerbeyi* was an endorsement from the Mediterranean’s most prominent Muslim leader, and granted him legitimacy in his negotiations with local North African rulers.²⁸⁷ With their incorporation into the Ottoman Empire, the North African provinces could also access raw materials for shipbuilding, munitions, and weapons that could not be produced in North Africa. For Istanbul, cooperation with the corsairs enhanced their navy and gave them ports from which to engage Hapsburg Spain in the western Mediterranean.²⁸⁸ Further, the corsairs’ experience

²⁸² Andrew C. Hess, *The Forgotten Frontier: A History of the Sixteenth-Century Ibero-African Frontier* (Chicago and London: The University of Chicago Press, 1978), 65.

²⁸³ Morgan, *A Complete History of Algiers*, 263.

²⁸⁴ *Khair ad-Din* in Arabic.

²⁸⁵ Francisco López de Gómara, “Crónica de los Barbarrojas,” *Memorial histórico español, colección de documentos, opúsculos y antigüedades* (Madrid: la Real Academia de la Historia, 1853), 331-439.

²⁸⁶ Emrah Safa Gürkan, “Mediating Boundaries: Mediterranean Go-Betweens and Cross-Confessional Diplomacy in Constantinople, 1560-1600.” *Journal of Early Modern History* 19, no. 2-3 (April 21, 2015): 107-28, 150.

²⁸⁷ Gürkan, “Mediating Boundaries,” 144.

²⁸⁸ Gürkan, “Mediating Boundaries,” 133.

in the region and frequent cooperation with Moors exiled from Spanish territory meant that they had become “experts in naval affairs who knew the Spanish lands.”²⁸⁹

As Emrah Safa Gürkan argues, the incorporation of corsairs into the Ottoman Navy also changed Istanbul’s naval policy and foreign relations.²⁹⁰ The Ottoman Navy’s dependence on corsair captains for their naval might, meant that there was little incentive to intervene when North African corsairs captured European ships protected by Ottoman *ahdnames*. Privateering activities funded themselves and provided the empire with slaves and loot.²⁹¹ While some historians have argued that Istanbul ignored any breaches of treaty because the corsairs were engaging in a “Holy War” against Christians, Gürkan argues that that “the Ottomans lacked the means, rather than the intention,” to punish wayward privateers.²⁹² Although the Porte tried to suppress the economic temptations that damaged their international reputation, the fact that orders to stop the capture of European ships were so often disregarded is “proof of the fragile Ottoman control over North Africa.”²⁹³

In 1604, Ahmed I officially acknowledged in his capitulations to France that he had limited power over the Ottoman Regencies and their privateering activities. An article in the capitulations admitted that some North African corsairs would “take and plunder, make slaves of merchants and sailors” on French ships, “against our will and

²⁸⁹ Mustafa Yildiz ed., *Gazavât-i Hayreddin Paşa: (MS 2639 Universitätsbibliothek Istanbul): kommentierte Edition mit deutsche Zusammenfassung*, (Reihe Orientalistik, Aachen: Shaker, 1993). f. 291a, p. 192 quoted in Gürkan, “Mediating Boundaries,” 134.

²⁹⁰ Gürkan, “Mediating Boundaries,” 140.

²⁹¹ According to Angelo Raffa, corsair operations decreased financial burdens on the Ottoman navy. Angelo Raffa, “L’ultima “ Alberini, *Aspetti ed attualità del potere marittimo in Mediterraneo nei secoli XII-XVI* (Rome: Ufficio storico della Marina Militare, 1999), 406.

²⁹² Gürkan, “Mediating Boundaries,” 152. See, for example, Alberto Tenenti, “I corsari nel mediterraneo agli inizi del cinquecento,” *Rivista Storica Italiana* 72, no. 2 (1960): 235-289.

²⁹³ Gürkan, “Mediating Boundaries,” 154.

that of the late Emperor Mohammed.”²⁹⁴ Ahmed gave “friendly consent” for “the Emperor of France” to “give chase” to Barbary corsairs who did not heed the Ottoman Capitulations and to “punish them and deprive them of his ports.”²⁹⁵

Similarly, an article added to England’s capitulations admitted that “it is publicly knowne, That certaine pyrates of Tunis & Algier, contrary to our Imperiall Capitulations, mind, & will, doe take, & rob in the seas, the ships merchandize & men, subjects to his Majestie of England.”²⁹⁶ Although protests by European Ambassadors in Istanbul might force the North African Regencies to relinquish ships and captives in the late sixteenth century, by the end of the first decade of the seventeenth century it became clear that the sultan’s authority alone could no longer protect European shipping in the Mediterranean, and that the treaties signed with the Porte were not sufficient to redeem English captives from the North African Regencies.²⁹⁷

As Nabil Matar points out, another major problem facing such treaties was the fact that European nations so often broke them. When, in the seventeenth century, Dutch and British ships arrived in the Mediterranean to engage in the “age of piracy,” neither the Ottomans nor the Venetians were capable of controlling the proliferation of piracy or of policing the sea. Alberto Tenenti has argued that the decline of Venice between 1580 and 1615 was largely a result of British and Dutch piracy in which they “showed

²⁹⁴ Article 19, “Lettres-Patentes En date du 20 mai 1604,” in I. de Testa, *Recueil des traités de la Porte ottomane avec les puissances étrangères depuis le premier traité conclu, en 1536, entre Suléyman Iet François I jusqu’à nos jours: Par le Baron I. de Testa* Volume 1, (Paris: Amyot, 1864), 141-151.

²⁹⁵ Article 20, “Lettres-Patentes En date du 20 mai 1604”; Gillian Weiss, *Captives and Corsairs: France and Slavery in the Early Modern Mediterranean* (Stanford: Stanford University Press, 2011), 13.

²⁹⁶ Article 48, Treaty of Commerce between Mahomet IV and Charles II, January 1661, Paul Ricaut, *The Capitulations and Articles*, 15.

²⁹⁷ John B. Wolf, *The Barbary Coast: Algeria under the Turks* (New York: Norton & Co, 1979), 178; Alexander H. De Groot, “Ottoman North Africa and the Dutch Republic in the seventeenth and eighteenth centuries,” *Revue de l’Occident musulman et de la Méditerranée* 39, no. 1 (1985): 131–47.

themselves to be pirates more ruthless and dangerous than any others.”²⁹⁸ Like the Ottoman Empire, European states often had difficulty controlling their subjects, especially when they were far from the imperial center. Piracy was rampant, and English and Dutch pirates often took Ottoman subjects prisoner.²⁹⁹

Despite the mayhem, by the early seventeenth century European powers began to develop direct diplomatic relations and treaties with the Regencies, treating with them as autonomous entities. In 1605, the French ambassador negotiated a tentative agreement for the release of slaves at Algiers, and a bilateral treaty with Tunis that gave both sides safe passage and the right to harbor in each other’s ports. It also facilitated the exchange of “Turks and Muslims” held captive in Provence for French subjects held in Tunis.³⁰⁰ Guillaume Calafat argues that the 1605 treaty between Tunis and France marked a “new era in diplomatic relations” between Europe and the Ottoman Regencies.³⁰¹ Despite the fact that the preambles of the treaties acknowledged Ottoman sovereignty and mentioned the Capitulations specifically, the direct negotiation of treaties with Tunis, Algiers, and Tripoli, confirmed the relative autonomy of the Regencies.³⁰²

The Dutch were next to negotiate directly with North Africa. In 1615, officials in

²⁹⁸ Alberto Tenenti, *Piracy and the Decline of Venice, 1580-1615* trans. Janet and Brian Pullan (Berkeley and Los Angeles: University of California Press, 1967), 56-88; 61.

²⁹⁹ Nabil Matar, *British Captives from the Mediterranean to the Atlantic, 1563-1760* (Leiden: Brill, 2014).

³⁰⁰ Weiss, *Captives and Corsairs*, 30. For the text of the treaty see “Articles pour l’accomodement des sujets du Roi avec les Vicerois et Capitaines des Janissaires et galères de Tunis. Août 1605,” in Edgard Rouard de Card, *Traites de la France avec les pays de l’Afrique du Nord: Algerie, Tunisie, Tripolitaine, Maroc* (Paris: A. Pedone, 1906), 113-115.

³⁰¹ Guillaume Calafat, “Ottoman North Africa and *ius publicum europaeum*: The case of the treaties of peace and trade (1600-1750),” in Antonella Alimento, ed. *War, Trade and Neutrality: Europe and the Mediterranean in the Seventeenth and Eighteenth Centuries* (Milan: FrancoAngeli, 2011), 173.

³⁰² See for example treaties between France and Tunis 1604, Algiers in 1690 and Tripoli in 1729. See Charles Henry Alexandrowicz, *The European-African Confrontation: A Study in Treaty Making* (Leiden: Sijthoff, 1973), 146.

Istanbul invited the Dutch to establish direct contact with the Regencies.³⁰³ In response, the ruler of Tunis, Yusuf Dey, acknowledged the Ottoman capitulations and the Dutch proposals for peace and friendship, but demanded that the Dutch send a permanent consul and that captains of Dutch ships carry documents to prove their nationality and submit to inspections at sea.³⁰⁴ These early demands for documents as proof of allegiance were ones that would be repeated in various permutations over the course of the seventeenth and eighteenth centuries. Indeed it was demands like Yusef Dey's—for documents and proof of nationality—that would later lead to the development of the Mediterranean pass system. Ironically, as I discuss in Chapter 4, the documents themselves would allow not only native-born Englishmen, but also many diverse inhabitants of the Mediterranean to claim protection as British subjects in the eighteenth century.

Soon, England also began to treat directly with the North African Regencies. After a failed attempt to bully Algiers into respecting the Ottoman capitulations,³⁰⁵ England sent Sir Thomas Roe to Istanbul to solve the problem of North African attacks on British shipping. Roe quickly realized that only direct diplomatic negotiations with the Ottoman Regencies could protect British ships from attack by privateers.³⁰⁶ In 1622 Roe made a treaty directly with Algiers and Tunis that established a commercial relationship, appointed a permanent consul, and exchanged Algerian slaves for English captives in Algiers. A draft of the treaty stated that Algiers would not commit any act “contrary to

³⁰³ De Groot, “Ottoman North Africa and the Dutch Republic,” 134.

³⁰⁴ Written in Tunis 20-30 *receb* 1024/16-26 August 1615 (A.R.A. S.G. 12593-27) cited in De Groot, “Ottoman North Africa and the Dutch Republic,” 134.

³⁰⁵ The English sent warships to bombard Algiers. See Admiral Sir Robert Mansell Instructions on his expedition against pirates, 1620, BL Add MS 36445 f. 15 and James I of England Letter to the Pasha of Algiers, 1620, BL Add MS 36445 f. 20.

³⁰⁶ De Groot, “Ottoman North Africa and the Dutch Republic,” 136.

the said Imperiall Capitulations,” but complained that “the said English Nation often times made warre upon us; for which cause wee have also been inforced to revenge our selves.”³⁰⁷

This treaty between England and Algiers was to become the basis for all future agreements between the two countries and was the first acknowledgment by the English government that the Regencies were quasi-independent states with which the European powers would have to treat directly. Other states with commerce in the Mediterranean would soon be forced to negotiate directly with the *deys*, *beys*, and *dīwāns* in North Africa rather than solely with the Sublime Porte at Istanbul.³⁰⁸

A 1622 treaty between the Dutch Republic and Algiers is a particularly good example of the difference between the unilateral *ahdnames*, and the new bilateral *sulhname* that European states had begun to negotiate with North Africa. The treaty guaranteed free trade between the two states, mandated that Dutch ships show their documents to Algerian cruisers in order to prove their nationality, opened Dutch harbors to Algerian ships and banned Algerian cruisers from inspecting Dutch ships for enemy goods. The treaty also had a specifically military aspect: it proposed joint action against that common enemy of Spain.³⁰⁹ De Groot argues that the treaties between European states and the Regencies in this period represented “the beginning of the special relationship of Ottoman Barbary with European powers,” which would persist until the early nineteenth century and was “characterized by its modern style more or less

³⁰⁷ “The Capitulations or Agreement of the Peace made wth Tunis and Alger at Constantinople, & accepted and signed by the Commissioners of Alger and Tunis,” March 1622/3, TNA SP 103/1 f. 75.

³⁰⁸ Wolf, *Barbary Coast*, 188.

³⁰⁹ De Groot, “Ottoman North Africa and the Dutch Republic,” 137.

conforming to established European diplomatic and legal usage.”³¹⁰

Diplomacy with Morocco in the Sixteenth and Seventeenth Centuries

Strategic interests in the Western Mediterranean and Atlantic—particularly rivalries with France and Spain—also required English cooperation with the Kingdom of Morocco.”³¹¹ Because Morocco was independent of the Ottoman Empire, the legal complexities involved in treaty-making was, in some ways, less diplomatically vexing than treating with the Ottoman Regencies. Elizabeth was the first English monarch to establish close diplomatic relations with Morocco. In her political dealings with the Muslim world, Gerald Maclean argues that “Elizabeth’s status as a Protestant queen proved useful, since her religion allied her with Muslim rulers against Catholic nations, while her gender meant she posed little threat to male authority.”³¹² Although England was a minor, peripheral, and relatively poor European power in the sixteenth century, small but important victories against Catholic powers made it an increasingly appealing ally to Morocco. In the last fifteen years of her reign, Elizabeth and Moroccan Sultan Ahmad al-Mansur maintained a frequent correspondence and discussed allied military action against Spain on several occasions.³¹³ Although Anglo-Moroccan negotiations never yielded direct military collaboration against Spain, they did achieve commercial treaties in which the two countries traded not only fabric and saltpeter, but also military stores such as firearms, ammunition, and timber to build warships.³¹⁴ In July 1585, Elizabeth granted a charter for the Barbary Company and in March 1588, Sidi al-Mansur

³¹⁰ De, Groot, “Ottoman North Africa and the Dutch Republic,” 136.

³¹¹ Gerald M. MacLean, *Britain and the Islamic World, 1558-1713* (Oxford ; New York: Oxford University Press, 2011), 51.

³¹² MacLean, *Britain and the Islamic World*, 45.

³¹³ MacLean, *Britain and the Islamic World*, 50-52.

³¹⁴ Khalid Ben Srhir, *Britain and Morocco During the Embassy of John Drummond Hay, 1845-1886* (New York: RoutledgeCurzon, 2005), 13.

issued a royal edict protecting all English traders, travellers, and residents in his kingdom.³¹⁵ Commercial relations as well as periodic (but never realized) negotiations for a military alliance against Spain continued into the seventeenth century.³¹⁶ However, political fractures within Morocco, and the inability of Moroccan sultans to control coastal territories meant that after Al-Mansur's death in 1603, English shipping was no longer safe from Moroccan privateers, or from pirates. Further, the disintegration of a central Moroccan authority meant that as in the case of relations with the Ottoman Regencies, England was soon thrust into diplomatic conundrums about sovereignty, international law, and treaty making.

With Morocco in a state of civil war, the Spanish were able to seize the Moroccan cities of Larache and al-Ma'mura between 1610 and 1614. In response, the Governor or *qā'id* of Azmūr, Sidi al-Ayachi, began counter-attacks against Spanish shipping. Meanwhile, after Philip III of Spain's 1609 edict expelling Moriscos, approximately 3,000 wealthy "Andalusians" from western Spain moved to Morocco's Atlantic coast. From there, many began naval attacks against Spanish ships—aided by arms purchased or traded for captives from the English and Dutch.³¹⁷ In 1627, Sidi Al-Ayyashi, seized the west-coast city of Salé, declaring it an independent republic. This new "Republic of Salé" became an important Atlantic power and the home of feared corsairs, the "Sallee rovers,"—many of whom were Moriscos expelled from Spain, or "Renegados"—

³¹⁵ MacLean, *Britain and the Islamic World*, 52.

³¹⁶ For example, in 1625, Charles I sought Moroccan military help against Spain, after the failure of the attack on Cadiz. See Kenneth R. Andrews, *Ships, Money, and Politics: Seafaring and Naval Enterprise in the Reign of Charles I* (Cambridge: Cambridge University Press Archive, 1991), 167.

³¹⁷ Andrews, *Ships, money, and politics*, 167; Joachim W. Hirschberg, *A history of the Jews in North Africa: From the Ottoman conquests to the present time* (Leiden: Brill), 234.

European Christians who had converted to Islam and taken up privateering in the name of Salé.

In need of military equipment, the new republic turned to England for arms and alliance. Through the enthusiastic English consul John Harrison, the Saletians sought a treaty of cooperation with King Charles I. Only a month after Salé declared its independence, the British envoy negotiated a treaty in which each side agreed to allow the other's ships to trade and resupply in each other's ports, to keep the peace at sea and to aid against each other's enemies.³¹⁸ Despite Harrison's eager endorsement of this treaty, Charles was reluctant to sign. According to Harrison, the Saletians—who were incredibly effective at capturing ships at sea—were dangerous for British traders in both the Atlantic and Mediterranean. Further, he believed that their fervent anti-Catholic sentiment meant that they would boldly fight with England against Spain.³¹⁹ Admiralty judge Sir Henry Marten, on the other hand, objected to the alliance, pointing out that because Salé was in rebellion against the recognized ruler of Morocco, any treaty would amount to an alliance with pirates.³²⁰

Despite these negotiations, attacks on English shipping in the Mediterranean and on the English and Irish coast continued. In 1636, merchants and ship-owners in Devon, Dorset, and Hampshire complained that “there are a great number of Turkish pirates from Algiers, and especially from Salley in Barbary, which of late years have so infested both this and the Irish coasts that they have within these few years taken from your petitioners four score and 7 sail of ships.” Due to these losses, and the “miserable captivity 1,160

³¹⁸ Andrews, *Ships, money, and politics*, 169.

³¹⁹ Nabil Matar, “The English Merchant and the Moroccan Sufi: Messianism and Mahdism in the Early Seventeenth Century,” *Journal of Ecclesiastical History* 64 (2013): 47–65.

³²⁰ Andrews, *Ships, Money, and Politics*, 169.

able seamen taken in the said ships” the merchants did not “dare to trade into foreign parts.”³²¹ The English tried a variety of methods to mitigate the threat of Saletian privateers, mostly without success. In 1632, an Anglo-Moroccan force assaulted Salé in an attempt to pacify the rebellious territory and liberate English captives.³²² Although the English were able to free over 300 captives, Morocco was not able to bring the republic back into the imperial fold, and despite the brief alliance with the Moroccan Sultan, Charles I would continue to collaborate with Al-Ayyashi throughout the 1630s, exchanging provisions and arms for captives.³²³

Despite his continued cooperation with Al-Ayyashi, and the growing number of English captives at Salé, Charles steadfastly refused to sign a binding treaty with the rogue republic. At a time when Parliament was challenging his own authority, Charles may have been all the more wary of signing treaties with “rebels.”³²⁴ This refusal to treat with the Saletians, however, resulted in huge numbers of Britons held captive in Salé, and, as some historians have posited, may have fuelled public animosity toward the doomed monarch.³²⁵

The Development of the Pass System

By the mid-seventeenth century, England had developed distinct diplomatic relationships with each of the so-called “Barbary States.” Although treaties and

³²¹ “The humble petition of the Merchants & owners of shippes in the Ports of Exeter, Dartmouth, Plymouth, Barnestaple, Southampton, Poole, Weymouth, Necom, Regis, & lime Regis, ...” [1636] TNA SP 16/536 f. 251.

³²² Adam Anderson, *An Historical and Chronological Deduction of the Origin of Commerce, from the Earliest Accounts: Containing an History of the Great Commercial Interests of the British Empire. Vol. 2* (London: Logographic Press, J. Walter, 1787), 347.

³²³ Andrews, *Ships, Money, and Politics*, 167-168.

³²⁴ Matar, *British Captives*, 86.

³²⁵ For a discussion of the political implications of Charles I’s captivity crisis, see Nabil Matar, “The Barbary Corsairs, King Charles I and the Civil War,” *The Seventeenth Century* 16 (2001): 239–259.

diplomatic negotiations were frequent, lasting peace was not forthcoming. Pirates flying the English flag often caused diplomatic crises when they attacked North African ships. To further confuse the situation, ships trying to avoid attack often flew the English flag as well, risking the ire of North African privateers who found them to be carrying enemy goods or subjects in contravention of treaty. Distinguishing friend from foe was crucial for avoiding attack. Yet, as Gillian Weiss argues, “the various nautical badges of identity-credentials, salutations, flags, and architecture-were infinitely disposable, forgeable, and malleable. Documents could be faked or tossed overboard...merchant vessels rigged with cannons, enemies camouflaged as allies.”³²⁶ As the Algerian Dey’s letter to the Dutch in 1617 indicated, proving a ship’s nationality remained a problem throughout this period, and any peace made with a North African state would probably not last long, due either to European piracy, or to the capture of a ship with disputed nationality. Amid this chaos of false flags and questionable allegiances, by the mid-seventeenth century Youssef Dey’s demand that all Dutch ships carry proper documentation proving their national allegiance would develop into a coherent pass system.

For the English, a rigorous system of passes developed in the 1660s. The 1658 treaty with Tunis declared the right of vessels of both countries to “*quietly pass without molestation, they displaying their colours.*” Rather than demand that the English ship have a pass, it mandated that Tunisian ships “*are to have a certificate, under the hand of the English consul there, that they belong to that place.*”³²⁷ The 1662 treaty permitted

³²⁶ Weiss, *Captives and Corsairs*, 18.

³²⁷ Article II, *Articles of Peace concluded by Jno. Stoakes, Commanderin-chief of the English fleet in the Mediterranean Sea, in the name of his Highness the Lord Protector, with Seignior Musa Xerife Bassa, the Duana of Tunis, Haggi Mustapha Dey, and Mahamet Bey, and with the rest of the soldiers in the kingdom of Tunis, this 8th day of February in the year of our Lord 1657–8.* Volume 179: February 1658', in

Tunisian cruisers to send two men on board vessels flying English colors “in order to satisfy themselves that they were English.”³²⁸

The treaty signed with Tripoli in 1662, however, called for a more complex and codified process, and led to the development of the Mediterranean pass system that would become so important when the British gained their eighteenth-century Mediterranean colonies. It is probably no accident that the first English treaty with North Africa to mention specific passes was made in 1662, a year after the English occupation of Tangier. As would be the case half a century later, the English needed to supply their garrison. Therefore, improving the technology of protection became important for mariners provisioning the colony.³²⁹ The 1662 treaty with Tripoli stipulated that Tripoli cruisers:

“Have liberty to send one single boat, with but two sitters more than the common crew of rowers, and no more to enter on board the said merchant ship but the two sitters, without the express leave of the Commander of the merchant ship; that upon producing unto them a Pass, under the hand and seal of the Lord High Admiral of England, the said boat do presently depart and the merchant ship to proceed on his voyage. And although the Commander of the merchant ship produce no Pass from the Lord High Admiral of England, yet, if the major part of the ship’s company be subject to the King of Great Britain, etc. the said boat shall presently depart, and the merchant ship proceed freely.”³³⁰

Calendar of State Papers Domestic: Interregnum, 1657-8, ed. Mary Anne Everett Green (London, 1884), 279-311.

³²⁸ Articles of Peace between England and Tunis, 5 October 1662, *A Treatise on the Laws of Commerce and Manufactures and the Contracts Relating Thereto, with an Appendix of Treaties, Statutes, and Precedents vol. 2* (London: A. Strahan for Henry Butterworth, 1824), 255.

³²⁹ See for example, See, for example BL MS Sloane 1995: Colonel Norwood to “Hamel el Hader Guylan,” 26 October 1666, f. 69; Norwood to “Cidi Hadrahan Benrichy,” 2/12 August 1666 f. 53; Pass-port of Antonio Dias, 30 July 1666, f. 52.

³³⁰ Treaty between Great Britain and Tripoli, 18 October 1662, Article II, Hertslet, *A Complete Collection of the Treaties and Conventions at Present Subsisting Between Great Britain & Foreign Powers: So Far as They Relate to Commerce and Navigation; to the Repression and Abolition of the Slave Trade; and to the Privileges and Interests of the Subjects of the High Contracting Parties. The Whole in English, and the Modern Treaties, and Most Important Documents, Also in the Foreign Languages in Which They Were Signed* (London: H.M.S.O., 1905), 125.

Although this treaty with Tripoli did not absolutely mandate the use of a pass, peace with Algiers would eventually produce a more strictly codified system of passes. Three treaties with Algiers were signed and broken during the 1660s and 1670s before a more permanent agreement was reached in 1682.³³¹ The 1682 treaty with Algiers was followed by an Order in Council in England laying out precise rules for issuing passes that would help to stop the diplomatic problems that arose from ships of uncertain national identity.³³² Passes were to be issued only to English or colonial built vessels or to “foreign vessels made free.” Masters of vessels had to be English or “Protestant Denizens,” and two thirds of the crew must be English subjects. Captains were required to swear on oath as to the ship’s origin, and the nationality of the owners and crews.³³³

While even in the mid-seventeenth century, identifying a ship’s national origin proved difficult, Nabil Matar argues that after 1688, defining “national identity” became even more problematic. After the accession of the Dutch William III to the English throne, and after the Hanoverian succession made German monarchs kings of England, the issue of who was protected by the English crown became particularly difficult to

³³¹ In 1662 Vice Admiral John Lawson “made an advantageous treaty with Algiers, so that ships will pass freely without search, which much rejoices the merchants,” see “Charles II - volume 56: June 1662,” in *Calendar of State Papers Domestic: Charles II, 1661-2*, ed. Mary Anne Everett Green (London: H.M.S.O., 1861), 396-426. In 1669, Sir Thomas Allin sailed to Algiers to “demand restitution or satisfaction, and to proclaim war if it is refused,” see “Charles II: February 1669,” in *Calendar of State Papers Domestic (CSP Dom)*, 177-218. In October 1674 Sir John Narbrough was empowered to treat with Algiers, Tunis and Tripoli, and procured the release of all the English slaves at Algiers, see “Warrant to the Lord Keeper for putting the Great Seal to three instruments of that date containing powers to Sir John Narborough to treat with Algiers, Tunis, and Tripoli,” October 18, 1674. See ‘Charles II: October 1674’, in *CSP Dom: Charles II, 1673-5*, ed. F H Blackburne Daniell (London, 1904), 373-391. Blank passes were sometimes sent to English consuls abroad, see TNA ADM 7/630, Register of passes 1662-8; For the 1682 treaty see Hertslet, *Treaties vol. I*, 58-66.

³³² Register of passes 1684-88, TNA ADM 7/76.

³³³ Treaty between Great Britain and Tripoli, 18 October 1662.

parse. Plausible subjects might include Dutch, Germans, or French Protestants.³³⁴ In April 1699, the Dey of Algiers complained that "... although sometimes an English vessel that abroad may be put to it for want of English saylors, to take in forreigners, yet it can't be thought that they should have above two thirds strangers when not one third Englishmen on board."³³⁵ Despite the advent of Mediterranean passes, the limitations on crews' nationality and religion were difficult to enforce in the multicultural maritime world of the seventeenth century and would prove to be impossible to uphold once the British gained the colonies of Gibraltar and Menorca. A new definition of the "English subject" was on the horizon.

1702-1713: THE WAR OF SPANISH SUCCESSION

In many ways, the War of Spanish Succession would intensify the relationship between England and North Africa. The conflict at the heart of the war was the balance of power in Europe—the same conflict that had so often played out in European competition over *ahdnames* from the Ottoman Empire, or in treaties with North Africa. Further, the specific dictates of the Treaty of Utrecht and simmering tension with Spain over the British possession of Gibraltar would cause Britain to build even closer diplomatic ties with North Africa.

The war had come at a discouraging time for the new English Monarch, Queen Anne. William had spent the 1690s embroiled in the Nine Years' War, in an effort to maintain a balance of Catholic and Protestant power in Europe and to ensure England's Protestant succession. But when Louis XIV's grandson Philip ascended to the throne of

³³⁴ Nicholas B. Harding, "North African Piracy, the Hanoverian Carrying Trade, and the British State, 1728-1828." *The Historical Journal* 43, no. 1 (March 1, 2000): 25–47.

³³⁵ "Babba Hassan Dey," "To our Dear and loving friend the king of England's Admirall," 9 April 1699, TNA SP 71/4 f. 5.

Spain in 1700, the frightening proposition that the two crowns might unite under a single Bourbon monarch seemed dangerously close to fruition. England and the Grand Alliance had spent the last decade of the seventeenth century putting a stop to Louis' hegemonic ambitions through violent warfare, and the deathbed decision of the childless Hapsburg Charles II of Spain to pass his throne to Bourbon Philip—the Duke of Anjou—threatened to make the victories and compromises of the Nine Years' War meaningless. When Louis XIV confirmed Philip's place in the succession to the French throne, the Alliance's fears seemed to be confirmed. When he began sending troops to the Spanish Netherlands—the buffer between France and the Dutch Republic—and dominating trade with the Spanish America, the English, Dutch, and Austrians came together once more, seeking to place Archduke Charles, the Hapsburg grandson of the Holy Roman Emperor on the Spanish throne as Charles III.

Despite their alliance, the Dutch and British knew that war often brought imperial spoils. Strategic conquests such as Gibraltar and Menorca could be a boon to a northern nation's Mediterranean trade, and although the Protestant English and Dutch might be allies against Catholic France, they were fierce competitors in the realm of global commerce. Since the British had lost Tangier in 1684, finding a new base of operation in the Mediterranean seemed a desirable goal—both to safeguard the Levant trade, and to control the connections between the Atlantic and Mediterranean. In 1704, when an Anglo-Dutch fleet captured Gibraltar, British ambassador to Portugal and inveterate schemer John Methuen commented that “the Consequence of the place to England seems to require an English Garrison and in truth an English Governour.” He went on to say that he wished that “the Government of that Place in Particular had been put in the hands of

an Englishman & which I think ought yet to be in a handsom manner endeavoured.”³³⁶ In a similar vein, the Duke of Marlborough argued that Gibraltar “may be of vast use to our trade and navigation in the Mediterranean, and therefore no cost ought to be spared to maintain it.”³³⁷ Similarly, when an Anglo-Dutch force captured Menorca in 1708, General Stanhope wrote to the Queen about the capture of the ports of Mahon and Fornells: “Her Majesty being now Mistress of the Two best Ports in the Mediterranean...it as my humble opinion that England ought never to part with this Island which will give the law to the Mediterranean both in time of war and peace.”³³⁸

Although both Gibraltar and Menorca had been invaded in the name of Charles III, from the start there were Britons anxious to take them as possessions of the Queen of England. By 1709, many in the ministry were anxious to end the war—especially on terms favorable to England—and Britain began secret peace negotiations with France. The accession of Charles III to the throne of Spain was not at the forefront of the British agenda. Instead their goals were, more broadly, to thwart any union of the French and Spanish crowns, safeguard the British West Indian and Mediterranean trades, and to obtain France’s recognition of the Protestant succession in Britain.³³⁹ When Louis sent word that he had obtained Philip’s promise that the British would have Gibraltar for the

³³⁶ Methuen to Charles Hedges, October 18/29 1704, TNA SP 89/18, f. 153.

³³⁷ Marlborough to Charles Hedges, 3 November 1704, John Churchill of Marlborough, *The Letters and Dispatches of John Churchill of Marlborough from 1702 - 1712 Edited by George Murray. Vol. 1*, (London: John Murray, 1845), 562.

³³⁸ Stanhope to Sunderland, 30 September 1708, Earl Philip Henry Stanhope, *History of the War of the Succession in Spain* (London: J. Murray, 1832), 75.

³³⁹ On 28 May 1709 the Prince of Hesse?, Marlborough and Townshend signed a document made between England and the United Provinces endorsed “preliminary Articles for a General Peace.” See “The Preliminary Articles [of a General Peace] Agreed Upon, and Concerted with the Ministers of France at Gertruydenburg,” [28 May, 1709] Clive Parry ed. *The Consolidated Treaty Series. Vol. 26* (Dobbs Ferry, NY: Oceana Publications, 1969), 317-330. See also “Papers touching the Negotiations and Transactions relating to the Articles preliminary to the Treaty of a general Peace in 1709, and the Negotiations and Transactions at Gertruydenburg.” ‘House of Lords Journal Volume 19: 19 June 1712’, in *Journal of the House of Lords: Volume 19, 1709-1714* (London, 1767-1830), pp. 485-486.

“real security of their trade with Spain, and in the Mediterranean,” the Queen and ministry were increasingly willing to sacrifice Charles’ throne for British trade interests.³⁴⁰ Despite these negotiations, the ministry continued to worry about Dutch interference in British plans for Gibraltar. In May 1711 Secretary of State Bolingbroke instructed the British Ambassador at The Hague to convince the Dutch to withdraw their troops from Gibraltar in such a way as to not arouse Dutch suspicion of British designs on the colony. By October, the ministry ordered Gibraltar’s Governor, Colonel Stanwix, not to “admitt any Soldier into this garrison...of any nation whatever but such as Her majesty’s Subjects,” an instruction he found confusing given that there was a Dutch regiment currently in the garrison.³⁴¹

In Menorca as well, although Charles III had appointed his own civil governor, it became increasingly clear that the English were in charge, and Stanhope even appointed his own military governor, Lewis Petit.³⁴² Petit also had a commission from Charles III as Brigadier, and in deference to the putative Spanish rule, flew a Spanish flag from Fort St. Philip—a fact that the future governor, the Duke of Argyll found “contrary to her Maj[esty’s] Interest.”³⁴³ By March 1712, as many Menorcans began to realize that the authority of the Spanish governor was largely symbolic, the *Jurats*—members of the local civil government—wrote to Charles’s regent in Barcelona pledging their loyalty to the Catholic monarch and complaining that British officers were “boasting” that Menorca would soon become British. They declared that they opposed any treaty that might make

³⁴⁰ “Vous pouver donc assurer ceux qui vous emploient, que l’on a parole du Roi d’Espagne de laisser aux Anglois Gibraltar, pour la sureté réelle de leur commerce en Espagne, & dans la Méditerranée.” Torcy to F. Gaultier, 31 May 1711, Bolingbroke, *Letters*, Vol. I, 178-179.

³⁴¹ Stanwix to [Bolingbroke?], 18 February 1711/12 (OS), TNA CO 91/1 f. 50.

³⁴² Instructions to Stanhope, 9 December 1708, TNA SP 94/77 f. 35.

³⁴³ Argyll to Brenton, 2 September 1711, Cambridge Archives, John Campbell, Duke of Argyll: Letter-book; Argyll to Dartmouth 31 December 1711.

them “subjects of another prince who professes a contrary religion.”³⁴⁴ The reply from Barcelona advised the Menorcans to “tolerate the present unhappy circumstances with prudent resignation,” and reassured them that the idea that Menorca might become British was “irrational.”³⁴⁵

In September 1712, nervous at the prospect of British rule, the *Jurats* sent their syndic, Cristóbal Rubí del Vilar to argue their case in Barcelona.³⁴⁶ When in November, the Duke of Argyll raised the British flag over Fort St. Philip, it was apparent that the *Jurats’* protests had been to no avail. The Duke reassured the *Jurats* that the Queen would continue to protect all of their ecclesiastical and civil rights and privileges, along with their freedom to practice Catholicism.³⁴⁷

THE TREATY OF UTRECHT AND IT’S AFTERMATH

The Treaty that would officially end the war was negotiated in the Dutch city of Utrecht between March and April of 1713. However, the Peace of Utrecht was, in fact, a series of treaties between the various warring powers, rather than a single document. Since the unofficial negotiation between France and Britain had begun in 1709, Gibraltar and Menorca had become increasingly important in the list of British demands. As the plenipotentiaries left for Utrecht, Bolingbroke instructed them that they were to insist “that Gibraltar and Port Mahon with the island of Minorca be for the future annexed to the crown of these realms.”³⁴⁸ When the diplomats complained of Dutch opposition,

³⁴⁴ Jurats to Isabela Cristina, 10 March 1712, Archivo Histórico de Ciutadella (hereafter AC), Consells Generals (hereafter CG).

³⁴⁵ Marqués de Rialp to Jurats, 29 April 1712, AC CG.

³⁴⁶ Rubí’s appointment as syndic, AC Caja 1700.

³⁴⁷ Representation of the Island of Minorca to the Duke of Argyll and the Duke’s answer, 5 December, 1712, TNA CO 174/1 f. 1.; Duke of Argyll to Earl of Dartmouth, 13 November 1712, TNA CO 174/15 f. 43.

³⁴⁸ Bolingbroke to the Duke of Argyle, 18 October 1711, Bolingbroke, *Letters Vol. I*, 417.

Bolingbroke instructed, “if they persist in their opposition ...make this open and fair declaration to them: that [the Queen] will insist to have the *asiento* granted to her subjects, and to keep Port Mahon and Gibraltar, that from these three points, no extremity shall ever oblige her to depart.”³⁴⁹ Britain had now made it clear that it was less invested in the accession of Charles III than in ensuring the balance of power in Europe, and in using the negotiations to advance its trade interests. The *asiento*—exclusive rights to provide slaves to Spain’s colonies—would be a major boon to British merchants in the highly lucrative trans-Atlantic slave trade. Gibraltar and Menorca would secure the British trade in the Mediterranean—Menorca providing a safe harbor for the fleet and “Gibraltar being the greatest thorofare of trade in the world”³⁵⁰

Menorca and the Treaty of Utrecht

Although Britain had already been negotiating secretly with France for several years, the first direct negotiations between Spain and Britain began in October 1712. Despite early assurances from France that Spain would cede Menorca, when negotiations with Spain began, Philip V only reluctantly agreed to surrender Menorca, and instructed his envoy to insist that the Menorcan *fueros* and their Catholic religion would be protected.³⁵¹ The British, however, asserted that because they had already conquered the island through force, they would not accept concessions for religious tolerance as a binding condition of the treaty.³⁵² The Queen was resolved “never to consent to anything which might be under-stood to derogate from her absolute & Independent Sovereignty”

³⁴⁹ Instructions to John Lord Bishop of Bristol and Thomas Earl of Strafford, 23 December 1711, Bolingbroke, *Letters Vol. II*, 186

³⁵⁰ Harley to Newcastle, 5 September 1704, *The Manuscripts of His Grace the Duke of Portland, Preserved at Welbeck Abbey*. (London: HMSO, 1891), 186.

³⁵¹ Grimaldo to Bedmar, 23 October 1712, AGS Estado, leg. 6820 cited in Donaldson, *Menorca*, 70.

³⁵² Monteleon to Grimaldo, 5 February 1713, AGS Estado, leg. 6822, quoted in Donaldson, *Menorca*, 70.

over places which she argued she had conquered. Through the right of conquest, the treaty ceding Gibraltar did not need to give her a legal right to possess Menorca, it simply “acknowledge’d that she had already.”³⁵³

Although eventually Britain agreed to allow “free exercise of the Catholic religion,” and to “safeguard people, goods and privileges” of Menorcans, Spain was afraid that if they if pressed for more clear and binding concessions, Britain would withdraw from any capitulations whatsoever and keep Menorca by right of conquest.³⁵⁴ The specific details and extent of Britain’s concessions remained ambiguous:

The Queen of Great Britain promises that all the inhabitants of the said island, both ecclesiastic and secular, will safely enjoy all their goods, rights and privileges, even the freedom to worship in the Roman Catholic faith: and, for the protection of the said religion in that island, measures will be taken which will not be at variance with the civil government and laws of Great Britain.”³⁵⁵

Further confusing the situation, Philip V agreed to cede to the crown of Great Britain “the whole island of Menorca, transferring forever all rights and full dominion over the said island.”³⁵⁶ On one hand, according to the treaty with Philip, Spain yielded “the whole island of Minorca,” to Great Britain and transferred to her “all right, and the most absolute dominion over the said island.” On the other hand, the Treaty of Utrecht stipulated that Britain must take care that all inhabitants, “both ecclesiastical and secular, shall safely and peaceably enjoy all their estates and honors, and the free use of the Roman Catholic religion.” In a final contradictory decree, it stipulated that “measures shall be taken for preserving the aforesaid religion in that island, provided the same be

³⁵³ Dartmouth to Lexington, 8 May 1713, TNA SP 105/269 f. 159.

³⁵⁴ Donaldson, *Menorca*, 71.

³⁵⁵ Translation of part of the 11th Article of the Treaty of Utrecht TNA CO 389/56, ff. 161,162.

³⁵⁶ Micaela Mata, *Menorca: franceses, ingleses y la guerra de Sucesión, 1705-1713* (Barcelona: Ateneo Científico Literario y Artístico, 1980), 384; Extract of Article XI of the peace treaty between Spain and Great Britain, 13 July 1713.

consistent with the civil government and laws of Great Britain.” These directives set out a confusing and contested mandate for British power. While on the one hand, the British had “the most absolute dominion” over Menorca, on the other, it had to preserve Menorcan “Estates and Honors,” and protect the practice of Catholicism on the island—a practice that many argued was not at all consistent with the “laws of Great Britain.”

Although Menorcans remained suspicious that the British would not honor their rights as either Menorcans or British subjects, they often argued that both their subjecthood and the legally ratified peace were important cornerstones of their rights. In 1713 Queen Anne sent Henry Neal to survey Menorca and to take stock of her new possession.³⁵⁷ Members of Menorca’s civil government alleged widespread abuses by the British military on the island. They alleged that the military authorities were treating Menorcans not as “subjects of our lady Queen but as a Conquered People.” Even though a peace treaty should secure their rights as British subjects, the British continued to “use the same way & means here as they did in Catalonia during the continuance of the War & not making a difference between that and a state of peace.”³⁵⁸

Under medieval conceptions of international law, the territory of a state was considered the private property of the monarch, and therefore any transfer of sovereignty (by conquest, treaty, or any other means) also meant the transfer of “all private lands and property and services of the subjects, who were transferred with the soil, in the same manner as a slaveholder may transfer his slaves and all they possess, together with the

³⁵⁷ A Copy of Mr. Neal’s Warrant to be Surveyor to the Island of Minorca, 27 November 1712, TNA CO 174/15 f. 55. For his findings, see “The State of the Island of Minorca, sent by Henry Neal, Esq., Her Majesty’s Surveyor there, in 1713; containing an estimate of the expenses of the various government establishments, an account of the estates, and what they render yearly to their owners,” BL Add MS 17775.

³⁵⁸ Answer to Neal’s articles by Dr. Juan Miguel Saura, Dr. Lorenzo Beltran and Dr. Rafael Alberti, 4 August 1713, BL Add MS 17775, ff. 36-41; f. 38

title to his plantation.”³⁵⁹ When a conqueror occupied the territory of his enemy, that territory too was “in every point considered his State property, with which and with the inhabitants therein he could do what he liked.”³⁶⁰ By the seventeenth century however, these formations had begun to change. Grotius wrote that “By conquest, a prince succeeds to all the rights of the conquered sovereign or state...He gains the same right, which the state had before, to alienate the possessions, or to transmit them if he chuses to his descendants.” For Grotius, the conquest of territory entailed “complete subjection,” and the new king’s “authority over it becomes an absolute, rather than a limited sovereignty.”³⁶¹ On the other hand, he wrote, “Lands are not understood to become a lawful possession and absolute conquest from the moment they are invaded.” According to Grotius, conquered territories were only a temporary possession that would not be considered permanent until “ratified and secured by some durable means, by cession, or treaty.”³⁶² For Menorcans, the fact that they were being treated as a “conquered people” was illegal because under the Treaty of Utrecht, any British claim to power through either the rights of war or conquest were moot.

British rule of Menorca during the War of Spanish Succession had been in many ways a covert and uncertain affair. The official Spanish cession of Menorca to Britain under Article XI of the Treaty of Utrecht, however, might finally signal a clear sphere of British sovereignty. Instead, the provisions of that treaty would provide a limited and contradictory mandate for British rule—continuing the legacy of unclear and contested

³⁵⁹ Henry Wager Halleck, *Halleck's International Law: Or, Rules Regulating the Intercourse of States in Peace and War* (London: C. K. Paul & Company, 1878), 133.

³⁶⁰ Lassa Oppenheim, *International Law: A Treatise Vol. II War and Neutrality* (London: Longmans, Green and Company, 1912) 204; Korman, *The Right of Conquest*, 30-31.

³⁶¹ Grotius, Chapter 8: On Empire Over the Conquered

³⁶² Grotius, Chapter 6: On the Acquisition of Territory and Property by Right of Conquest.

British authority on the island, and, as I will discuss in Chapter 5, causing clashes between colonial governors and local magistrates for the next century of British rule.

Treaties with North Africa after the Treaty of Utrecht

After the treaty of Utrecht, the surge of Mediterranean trade required to support the new British colonies necessitated further treaties with the Barbary States to protect vessels supplying the colonies. When he first visited Menorca in 1712, the Duke of Argyll had written to the *deys* and *beys* of North Africa, advising them that Menorca was now British territory.³⁶³ In March 1714, Queen Anne also gave instructions to Admiral James Wishart to make representations to the government of Algiers that they should consider the inhabitants of Menorca “Our natural born subjects and are consequently included in Our Treaties with them.”³⁶⁴ In Morocco, in July 1714, British envoy Captain Patton and Ahmed ben Ali ben Abdala, *qā'id* of Tétouan, signed a new “Treaty of Peace, Friendship & Commerce” between Emperor Ismail of Morocco and Queen Anne.³⁶⁵ This treaty too affirmed that all persons living in Gibraltar and Minorca should be considered British Subjects.³⁶⁶ The Queen was also eager to secure new treaties with the Ottoman Regencies, and sent Admiral Baker to negotiate. While Baker was awaiting his orders in Menorca, Lieutenant-Governor Kane, eager to establish trade between Menorca and North Africa, called a meeting of Menorcans who might be interested in establishing

³⁶³ Laurie, *Life of Richard Kane*, 142.

³⁶⁴ “Instructions for our Trusty and Welbeloved Sr James Wishart,” 28 February 1713, TNA CO 389/54.

³⁶⁵ Congreve, 18 November 1714 (OS), TNA CO 91/5 pp. 35-36, Paddon appointed Mr. Palmer as British Consul at Tétouan, see Congreve to Stanhope, 16 May 1715 OS TNA CO 91/5 f. 159, TNA SP 102/4 f. 101, Draft or copy of a treaty between Sidi Isma'il and Queen Anne Undated [July 1714], translated in J.F.P. Hopkins, *Letters from Barbary, 1576-1774: Arabic Documents in the Public Record Office* (London; New York: Oxford University Press, 1982), 40. See also Philip George Rogers, *A History of Anglo-Moroccan Relations to 1900* (Foreign and Commonwealth Office, 1991), 83. See TNA SP 102/2 f. 179 for an English version by Simon Ockley and TNA SP 102/2 f. 178 for a letter about it from Ockley, 8 June 1714.

³⁶⁶ TNA SP 102/2 f. 179 see also Rogers, *Anglo-Moroccan Relations*, 83. The Sultan also agreed to release agreed to release two captive Spaniards who had been in the service of the English at Gibraltar.

business connections with the North African states, particularly the possibility of importing livestock to the island.³⁶⁷

Like the 1714 treaty with Morocco, Baker made treaties made with Tripoli, Tunis and Algiers that affirmed British possession of the new territories, and affirmed the inhabitants as British subjects.³⁶⁸ These treaties stipulated:

for this time forward, for ever, the said Island of Minorca, and the city of Gibraltar, shall be esteemed in every respect...to be part of His Britannic Majesty's own Dominions, and the inhabitants thereof to be looked upon as His Majesty's natural subjects, in the same manner as if they had been born in any other part of Great Britain.³⁶⁹

All three treaties also contained prohibitions against North African privateers cruising for prizes “before or in sight” of Gibraltar or Menorca. The Treaty with Tunis specified that “none of the ships or vessels belonging to Tunis...shall be permitted to cruise, or look for prizes of any Nation whatsoever” in sight of Gibraltar and Menorca or “to hinder or molest any vessels bringing provisions and refreshments for His Britannic Majesty's troops and garrisons...or to give any disturbance to the trade or commerce thereof.”³⁷⁰

Despite the new treaties, North African corsairs were often confused and irritated when they boarded ships that carried British passes but were full of Spanish or Italian-speaking sailors. After numerous complaints, in 1726 Lieutenant Governor Kane sent a letter to the consuls at Tétouan and Algier asking them to explain to the corsair captains and admirals at those ports the “mixt people of which the Kings subjects of Gibraltar are

³⁶⁷ Laurie, *The Life of Richard Kane*, 142.

³⁶⁸ Tripoli, 19 July 1716 Article 23; Tunis 30 August 1716 article 10; Algiers 29 October 1716 Article 2.

³⁶⁹ Tripoli, 19 July 1716 Article 23; Tunis 30 August 1716 article 10; Algiers 29 October 1716 Article 2. Copy of the Second Article of the Treaty of Peace and Commerce concluded between Great Britain and Algiers dated October 29, 1716, TNA CO 91 /31.

³⁷⁰ Article 11, Treaty between Great Britain and Tunis, 30 August, 1716.

composed with the Reasons how they came to be of different Nations.”³⁷¹ These explanations about the diversity of these new British subjects would not suffice however, especially, as I will discuss in Chapter 4, given the new opportunities for abuse available to Genoese or Spaniards posing as Menorcans or Gibraltarians.

To ensure that anyone serving the garrisons would be protected, the British treaties with North Africa would need to provide explicit protections to Menorcans, Gibraltarians, and eventually all inhabitants of the colonies regardless of their nationality. The 1721 treaty with Morocco stipulated that “*not any of the Spanish*,” or other people under the governments of Gibraltar or Menorca “shall be taken or molested, sailing under English colours with passports.”³⁷² In 1722, the Privy Council issued new rules about passes, exempting Gibraltar and Menorca from the rules about religion or national origin of the captain and crew.³⁷³ In the instructions they sent to the Governor of Gibraltar, the Privy Council was explicit: the governors should issue passes to inhabitants, “what religion soever they may be” so long as they swore an oath of allegiance to the King³⁷⁴—the text of which was conveniently offered in both English and Spanish. Finally, in a 1760 treaty with Morocco, the British added to the list of people enjoying the protections of British subjecthood “*natives of any other country*” who reside “under the English government at Gibraltar or Menorca.” These Spaniards, Genoese, Greeks, Portuguese,

³⁷¹ “Copy of a Letter from Colonel Kane Commander in Chief at Gibraltar to his Majesties Consulls at Tetuan (and Algier)...,” 20 June 1726, TNA CO 91/4 f. 197a.

³⁷² Treaty between Great Britain and Morocco 23 January 1721, *Hertslet's Commercial Treaties*, 89

³⁷³ “Forms, Rules & Regulations Relative to Mediterranean passes 1767”; “Extract of the New Rules & Methods for granting Passes” ; “Minorca, Order to the Govt abt new Mediterranean Passes & the Fees to be taken for them,” GGA Admiralty Book No. 1 pp. 3-5. “Gibraltar, Order to the Govr abt New Mediterranean passes, with forms of Bond and Oath &c,” 1 June, 1722, TNA PC 2/88 pp. 38-40.

³⁷⁴ “Forms, Rules & Regulations Relative to Mediterranean passes 1767”; “Instructions for the delivery of Mediterranean passes at Gibraltar and Port Mahon,” GGA Admiralty Book No. 1, pp. 1-2.

Jews, or Moors would, according to the language of the treaty “*be considered and esteemed as English natural subjects.*”

Either “Jews or Moors”

In Menorca, the Treaty of Utrecht would cause confusion about the religious and civil rights of Menorcans. In Gibraltar, the central conflict was between Britain’s relationship with North Africa and Article X of the treaty of Utrecht. This article forbade “Jews or Moors” from residing in the town, and banned any direct trade across the border with Spain. In the early years of British rule, these provisions created uncertain futures for Jewish residents, and eventually led to war with Spain. Because Anne had granted Gibraltar free port status in 1706, ships of all nationalities were allowed to come and go, in hopes this would encourage vessels to supply the garrison. “Maany boats and embarkations came from Portugal, Barbary and even from the enemy’s towns of Malaga, Marela, Estepona, Tarifa and other adjacent places,” reported Colonel Bennett, an engineer dispatched to report on the state of the rock. He described crews that risked their “lives and liberties, to bring wine, bread fruit and other refreshments tto the garrison” while the war raged around them.³⁷⁵ Further, he reported, “a great number of Spaniards, both men, women, and children...about 300,” arrived either to recover their property or to serve the garrison.³⁷⁶ Despite the lively trade emerging in the new colony, Bennett was hardly enthusiastic about these visitors and inhabitants, who, he feared, represented a Papist threat. Another group who came “in great numbers from Barbary, Leghorn and Portigal” was Jewish traders. Bennett was suspicious of these newcomers, claiming that they “showed themselves enemies to the place by hindering our getting materials (repairs

³⁷⁵ Bennett’s report, 22 November 1712, BL Add MS 10034 f. 137.

³⁷⁶ Bennett’s report, 22 November 1712, BL Add MS 10034 f. 137.

for the fortifications, more profitable for other causes) and may at some time or other do more damage to the place, being a mercenary people, and may betray the garrison as they have often done to the Moors during their conquest of Spain.”³⁷⁷ Despite Bennett’s intolerant misgivings about the civilians who came to trade, both Catholics and Jews, as I will discuss in Chapter 3, proved to be vital to the survival of the garrison.

In the early days of British rule, British authorities tried to honor Article X of the Treaty of Utrecht with attempts to ban and expel “Jews and Moors” from the rock. Governors were wary of disturbing their fragile peace with Spain, but were also aware that North African merchants provided valuable trade connections.³⁷⁸ However, the frequency with which orders to expel Jews from Gibraltar came from the Secretaries of State in the first years of British occupation, seems to indicate that none of the governors were successful—if they made any serious efforts at all. In November 1713 the ambassador to Spain reminded Governor Congreve that it had been Queen Anne’s will that Article X be “inviolably observed.”³⁷⁹ In February 1714, Secretary Bolingbroke gave Congreve one month to rid the rock of all Jews and Moors.³⁸⁰ By May, Congreve wrote that he had expelled all but “Six jews of Barbary and as many European jews.” He claimed that these twelve were being detained “till they Satisfie the English Merchants” to whom they owed money.³⁸¹ Despite these successive orders to expel Jews in the early

³⁷⁷ Bennett’s report, 22 November 1712, BL Add MS 10034 f. 138-139.

³⁷⁸ Hills, *Rock of Contention*, 228.

³⁷⁹ Lexington to Congreve, 28 November 1713, TNA CO 91/1 f. 138, “que la volonté de leurs Majeste’s estoient que cet Article fut observe inviolable.”

³⁸⁰ Bolingbroke to Congreve, 25 February 1713/4, TNA CO 91/5 pp. 78-79.

³⁸¹ Congreve [to Stanhope?], 18 November 1714 (OS), TNA CO 91/5 pp. 35-39.

years of British Gibraltar the Jewish population—by bribing officials or by illegally re-entering the colony—continued to grow.³⁸²

This largely laissez-faire attitude toward the Treaty of Utrecht would have diplomatic consequences. In 1717, Spanish Ambassador Marquis de Monteleon complained that contrary to the provisions of the Treaty of Utrecht, there were “above three hundred Jews” in Gibraltar and that they even “keep an open synagogue.”³⁸³ Although Governor Cotton denied the accusation,³⁸⁴ he was ultimately accused of taking bribes from Jewish merchants. Cotton, Major Thomas Fowke, and leading Jewish merchants made depositions and oaths before the Deputy Judge Advocate at Gibraltar, swearing that no gifts had changed hands.³⁸⁵ Although Cotton seemed reluctant to expel Jewish residents from the town, finally in 1717, he reported he had “strictly complyd with what is stipulated in the 10th Article of the Treaty of Utrecht, By removing both from the Towne and Bay the Jews of all Nations,” except for one he kept prisoner until he received goods to pay his debts.³⁸⁶ The Jews had been successfully expelled from Gibraltar.

Gibraltar: The Treaty of Utrecht and the Conundrum of North Africa, 1721

In Morocco, although a treaty had been completed in 1714, it broke down a few months later, when Captain Paddon failed to produce the chinaware, cloth, and twelve spotted deer he owed the Sultan.³⁸⁷ Despite several attempts to negotiate a new treaty, diplomatic relations were stalled, helped neither by a blockade against Morocco initiated by Admiral Cornwall, nor by Cotton’s expulsion of the Sultan’s Jewish subjects from

³⁸² Cotton and Fowke were accused of taking bribes from Jewish merchants. See October 1717, GGA Deputy Judge Advocate.

³⁸³ Methuen to Cotton, 28 March 1717, TNA CO 389/54. M Benady, “Settlement of Jews,” 87-110.

³⁸⁴ Cotton to Bubb, 8 May (NS) 1717, BL Egerton MS 2174 f. 205.

³⁸⁵ October 1717, GGA Deputy Judge Advocate; Copies of the affidavits, 12 October 1717, TNA CO 91/1.

³⁸⁶ 8 February 1718, TNA CO 91/1.

³⁸⁷ Rogers, *Anglo-Moroccan Relations*, 83.

Gibraltar in 1717.³⁸⁸ Negotiations for a more permanent peace dragged on; it was finally concluded in 1721. Key to this treaty was Article 7, which explicitly stated that “the subjects of the Emperor of Fez and Morocco, whether Moors or Jews, residing in the dominions of the King of Great Britain, shall entirely enjoy the same privileges that are granted to the English residing in Barbary.”³⁸⁹ This direct contradiction of the Treaty of Utrecht would frustrate governors for years to come. But it also provided a legal basis for Jews and Moors to reside in Gibraltar, and just four years later there were already 137 Jews again residing in the town.³⁹⁰

If no “Jews or Moors” were to reside in Gibraltar under the treaty of Utrecht, and all subjects of Morocco—whether Jews or Moors—were to enjoy the same privileges of residence and freedom that English subjects enjoyed in Morocco, what actions could the Governor take to uphold Britain’s contradictory diplomatic obligations to both Morocco and Spain? When Richard Kane, summoned from Menorca to govern Gibraltar, first arrived on the rock in 1725, he wrote to Lord Townshend: “I shall obey His Majesty’s Commands in using my best endeavours for keeping a good Corrispondence with the Spaniards; & to the best of my understanding shall observe such treaties stipulated with that Crown.” He was, however, “greatly apprehensive of some difficulties if they should strictly insist upon one part of the 10th Article of the Utrecht Treaty,” as the treaty with Morocco and the treaty with Spain were “directly opposite one to the other.” Kane laid out the contradictory clauses of the treaties, worrying that if Gibraltar honored the treaty

³⁸⁸ Rogers, *Anglo-Moroccan Relations*, 84.

³⁸⁹ See TNA CO 91/7 and “Extract of the Treaty of Peace and commerce between the king of Great Britain and the Emperor of Morocco dated at Tetuan the 17th of January 1720 OS,” Article VII, TNA SP 71/16 f. 313.

³⁹⁰ “Number of Inhabitants in Gibraltar....” 20 August 1725 (OS) TNA CO 91/1 f. 195. See also Kane to Townshend, 25 September 1725, TNA CO 91/4 f. 137.

with Morocco, it would disrupt the peace with Spain: “as the Port is to be free to Moors by treatys,” Kane wrote, “upon some occasions, it gives offence to Spain.”³⁹¹ A month later, he wrote to the ministry again: “I was so particular in my letter of the 18th of August touching the Treaties of Peace which respect the Jews, that I shall say no More of them than to hint that they are in number 111 Males & 26 Females, and that they have been allowed a Synagogue.”³⁹² Despite his promise to “say no More,” about the Jews in Menorca, Kane was so troubled by this conundrum that he wrote letters to both secretaries of state, the secretary to the Lords’ justices, and the consuls at Tétouan and Algiers. After much parsing and pondering, Kane decided that the wording of the treaty with Morocco was perhaps “only renewing an old Article; and that the Privileges there mentioned were not to Extend any farther than as the Dominion was at that time”—before Britain had gained Gibraltar.³⁹³ Kane wrote to the consul at Tétouan, asking if he could, “without giving Umbrage,” ask the *qā'id* of Tétouan—one of the signatories of the 1721 treaty—whether he believed Article 7 was meant to apply to Gibraltar. Finally, he resolved that he would “order the Jews that are here to give Notice to their Correspondence in all Parts not to come hither with a view of Inhabiting here; and Shall acquaint all Jews who have families that they are to prepare to retier from hence with their famalys, and that none arc to be admitted here but as travelers.”³⁹⁴

Regardless of Kane’s interpretation of the treaty, it is clear that both Moroccan subjects and leaders interpreted the treaty as a license for Moroccans to move to Gibraltar. “Every Vessell that has lately come from Tetuan has brought Some Jews,”

³⁹¹ Governor Richard Kane to Lord Townsend, 18 August 1725, TNA CO 91/1 f. 143.

³⁹² Kane to Townshend, 25 September 1725, TNA CO 91/4 f. 137

³⁹³ Kane to De la Faye, 15 October 1725, TNA CO 91/4 f. 155.

³⁹⁴ Kane to Consul Hatfield, Tétouan, 10 November 1725, TNA CO 91/4 f. 161-162.

Kane complained. “These people fancy that the last Clause in the 7th Article of the late Treaty with Moroco gives a right to all jews...who Shall Call themselves Subjects of Moroco, So that...we are not to refuse any Jew of Barbary that Shall demand the privilege of recideing here.”³⁹⁵ When, after a year of writing letters on the subject, Kane finally received a response from the ministry in the summer of 1725, it was probably not what he had expected. London advised Kane that although allowing Jews to reside in Gibraltar was “not strictly conformable to ye Treaty of Utrecht,” that “considering the present circumstances of our Affairs,” Kane should tolerate those Jews currently living in Gibraltar. The ministers in London “would accordingly have you suspend ye Execution of any Orders that may have been formerly sent for removing them from thence.”³⁹⁶

This “present state of affairs” was the growing hostility between Spain and Britain. It was no secret that Spain chafed at British occupation of Gibraltar and would take any opportunity to win it back. Two months earlier, in April 1725, Spain had signed the Treaty of Vienna. Eager for a share of the thriving global maritime trade, Flemish merchants and ship-owners sought to replicate the success of the Dutch, British, and French East India Companies by establishing direct commercial relations with the Indies. In 1715 they created the Ostend Company and began trade with India, Bengal, China, and Mocha.³⁹⁷ Under the Treaty of Vienna, Spain would grant Austria’s Ostend East India Company the same rights as British and Dutch traders in their colonies, and in return, the Austrian Empire would relinquish any claims to the Spanish throne and promise to aid

³⁹⁵ Kane to Consul Hatfield, Tétouan, 10 November 1725, TNA CO 91/4 f. 161.

³⁹⁶ Draft to Kane, “after July 1725” quoted in Hassan, *Treaty*.

³⁹⁷ Gerald B. Hertz, “England and the Ostend Company.” *The English Historical Review* 22, no. 86 (1907): 255–79.

Spain in recapturing Gibraltar.³⁹⁸ Although the British ministry had previously been adamant about honoring the terms of the Treaty of Utrecht and expelling “Jews and Moors” from the Rock, outright war with Spain would make the deportation of Jews not only useless, but also deprive Gibraltar of a civilian population key to supporting the garrison.

However, the ban on “Jews and Moors” was not the only contradiction between the Treaty of Utrecht and the treaties with North Africa, and not the only problem heating up tensions between Spain and Gibraltar. The bilateral *sulhnames* with North African states had long contained reciprocal agreements, and to a greater or lesser degree provided North Africans with rights and privileges in British domains. The 1716 treaty with Tunis, for example, required that “the ships of either party shall have free liberty to enter into any port or river, belonging to the Dominions of either party” and that “all ships belonging to the Dominions of either Party shall have free liberty to use each others ports for washing, cleaning or repairing any their defects.”³⁹⁹ The Treaty of Utrecht, on the other hand, while acknowledging that because of their commercial treaties, “British subjects cannot refuse the Moors and their ships entry into the port of Gibraltar purely upon the account of merchandising,” it also stipulated that “no refuge or shelter shall be allowed to any Moorish ships of war” in any of the harbors of Gibraltar or Menorca.⁴⁰⁰ All of the 1716 treaties with the Regencies explicitly banned North African privateers from “cruising” —looking for prizes—in sight of Gibraltar or Menorca. The treaty with Tunis specifically promised that no Tunis privateer would “hinder or molest any vessels

³⁹⁸ Jeremy Black, “Anglo-Austrian Relations, 1725–1740. a Study in Failure,” *Journal for Eighteenth-Century Studies* 12, no. 1 (March 1, 1989): 29–45.

³⁹⁹ See for example, Articles II and XII, Treaty between Great Britain and Tunis, Signed at Tunis, 30 August 1716.

⁴⁰⁰ Article X, Treaty of Utrecht. See also Article XI.

bringing provisions and refreshments for His Britannic Majesty's troops and garrisons" in Gibraltar or Menorca or "give any disturbance to trade or commerce thereof." However, it seems clear that neither Morocco nor any of the Ottoman Regencies saw such language as a ban on their ships' protections and respite in the ports of a country with which they were at peace. Indeed the treaties also had, to varying degrees, reciprocal promises of protection.⁴⁰¹ The 1716 Treaty with Tunis (the most reciprocal of the 1716 treaties) not only provided that ships of both nations could use each other's ports for repairs, but also stipulated, that "if any of the ships of either Party shall by accident of foul weather, or otherwise, be cast away upon any coast, belonging to either party, the persons shall be free, and the goods saved and delivered to the proprierts there of."⁴⁰² Likewise, the 1721 treaty with Morocco stipulated that "If any English ship be thrown upon the Emperor's coasts...the same shall be protected...in like manner the Emperor's ships happening to be thrown on the coast of Great Britain, or the Dominions thereto belonging."⁴⁰³ Despite the caveat about treaties with North Africa in the Treaty of Utrecht, the 1720s saw increasing hostility from Spain about the presence of North African ships in Menorca and, to a greater degree, Gibraltar.

In the summer of 1723 an Algerian vessel sank off Gibraltar. Thirty-two men from the doomed vessel came ashore, and, as Lieutenant-Governor Hargrave tells it, "desired my Protection since their Nation was in Peace with the King my Master." Hargrave, wary of Spanish reaction, ordered that they be brought within the protection of the British guards, but not into the town itself, "fearing the Spaniards should cutt off the Communication with us, the Trade being prohibited with Algier at that time." That night,

⁴⁰¹ Treaty between Great Britain Tunis, 1716 XI.

⁴⁰² Treaty between Great Britain Tunis, 1716, Article V.

⁴⁰³ Treaty between Great Britain Morocco, 1721 Article II.

the Marquis of Mourreal, commander of the Spanish garrison across the border, “sent a Captain of Horse to acquaint me that he designed immediately to attack the Moors, and hoped I would not be surprised to see his Troops marching for that purpose.” Mourreal claimed that because the men were outside of the city, they were beyond the jurisdiction granted by the Treaty of Utrecht and so beyond British protection. “I desired him to give my humble service to the Marquis,” Hargrave wrote to London “and to acquaint him that as those people were under the protection of the king my master’s Garrison I could by no means suffer them to be attacked.”⁴⁰⁴

In a similar situation a year later, a ship of the Dey of Algiers “by a violent Storm with her Masts broken...came to an Anchor near the Walls of the Town” of Gibraltar, firing a gun as a distress signal. When the crew had been rescued, the captain requested material to “fitt his Vessel,” a request the nervous Hargrave denied him, telling the captain that the garrison did not have supplies to fit a ship, “nor could I admit him to fitt here.” “Whereupon,” according to Hargrave, “the captain was in a great Passion and said that the King of England’s ships, were furnished with every thing, when they came to Algier, and as his Nation was in Peace with the King my Master, he expected to meet with the same treatment here.” Hargrave placated the captain by selling him “Two Pieces to serve him for Masts and a small quantity of Rope.” Responding to letters of complaint from the Spanish Ambassador, Hargrave added in his letter to London that he believed that his solution would be “agreable to His Majesty’s Commands to me, that I should have a strict regard to the Neutrality, which His Majesty is desirous to observe with the

⁴⁰⁴ Hargrave to Carteret, August 2 1723, TNA CO 91/4 ff. 67- 68.

Government of Algier. I thought I could not do less then to suffer them to buy those things without which it was not possible for them to return to Algier.”⁴⁰⁵

These and similar incidents in the 1720s gave fodder to Spanish claims that Britain was failing to honor the terms of Treaty of Utrecht. It seemed impossible for Britain to honor its obligations to Spain, while continuing to uphold its treaties with North Africa—treaties that were essential to the survival of the Garrison and colony. On 21 December 1726, the Spanish Ambassador in London, Marquis de Pozobueno, told the Duke of Newcastle that “the cession which His Catholic Majesty had previously made at the peace of Utrecht had become null and void,” because Gibraltar had extended the fortifications of the garrison, and had “permitted Jews and Moors, enemies to the Catholic religion, to reside in the city.”⁴⁰⁶ Within a few months, Spanish troops laid siege to the city.

Ironically, despite (and in many ways because of) Spain’s insistence that “enemies to the Catholic religion” should not reside in Gibraltar, the siege of 1727, as Joshua Hassan argues, “set the seal on the settlement and subsequent growth of the Jewish community of Gibraltar.”⁴⁰⁷ Not only did Jewish participation in defending Gibraltar against Spain show that they were “an integral part of the population of the garrison,” but the siege drove Gibraltar to develop stronger ties with North Africa.

⁴⁰⁵ Hargrave to Newcastle, April 6, 1725 TNA CO 91/4 f. 101. Although the 1716 treaty between Britain and Algiers did not have the same level of reciprocity as those with Tunis or Morocco, the first article promised that “the subjects and people of either side, shall not, henceforth do to each other any harm, offence, or injury, either in word or deed, but shall treat one another with all possible respect and friendship. Further, Article III, which promised that English ships with Algerian passengers “shall defend them to their enemies,” might reasonably be interpreted as a promise of rescue from shipwreck and protection from Spanish attack. Treaty between Great Britain and Algiers, 1716, Article I; III.

⁴⁰⁶ Frederick Sayer, *The History of Gibraltar and of its Political Relations to Events in Europe*, (London: Saunders, Otley, and Co., 1862), 176.

⁴⁰⁷ Joshua Hassan, *The Treaty of Utrecht 1713 and the Jews of Gibraltar : Lecture Delivered to The Jewish Historical Society of England in London 15 May 1963* (London: The Jewish Historical Society of England, 1970), 14.

Governor Kane reported that when the *qā'id* of Tétouan heard news of the siege, he wrote “a handsome Letter offering supply’s of provisions &c and protection to all who should come thether under English Collours, with offers of other Services.”⁴⁰⁸

The Spanish finally withdrew after a five-month siege, and the Anglo-Spanish war officially ended with the 1729 Treaty of Seville. Although the British would continue to make some efforts to honor the terms of the Treaty of Utrecht that excluded North Africans from Gibraltar, it was with decreasing success or conviction. A new treaty with Morocco in 1729 tried to solve the Utrecht contradictions by stipulating that subjects of the Emperor of Morocco, could spend thirty days in Gibraltar in order to trade, but could not reside there.⁴⁰⁹ This condition, however, was rarely, if ever, enforced—especially as trade with Morocco became increasingly crucial for Gibraltar’s survival. Nabil Matar has cited this article of the 1729 Anglo-Moroccan treaty as an example of the increasing exclusion of the Maghreb from trade and contact with Europe. It is indeed the case that by the eighteenth century, North Africans were increasingly barred from direct trade with Europe. However, what Matar does not take into account in his interpretation of this treaty, is that this article was a specific attempt to reconcile Gibraltar’s increasingly *important* relationship with Morocco, with the terms of the Treaty of Utrecht—a compromise made in language, if not in practice. In fact, Gibraltar historian Tito Benady argues that orders containing this new provision may never have been sent to Gibraltar at

⁴⁰⁸ Kane to Newcastle, 12 January 1726/7, TNA CO 91/4 f. 258.

⁴⁰⁹ Article 1 “That all Moors or Jews, subject to the Emperor of Morocco, shall be allowed a free traffic, to buy or sell for thirty days in the City of Gibraltar, or the Island of Menorca, but not reside in either place, but to depart with their effects, without let or molestation, to any part of the said Emperor of Morocco’s dominions.” Additional Articles between Great Britain and Morocco. Signed at Fez, 10th July, 1729.

all.⁴¹⁰ The facts that in subsequent decades the article was widely ignored, the vibrant trade between Morocco and Gibraltar increased, and the Jewish population continued to grow, demonstrate that despite the rhetoric, Morocco was too valuable an ally and trading partner for the British to practice any meaningful “exclusion of the Maghrebi.”

CONCLUSION

The eighteenth century was a period of enormous change for the British Empire and the people who would encounter it: diplomats and merchants, governors and inhabitants, alien subjects and native-born Britons. The empire was never, in fact, as many historians note, the domain of “free white British peoples.”⁴¹¹ Nor was it ever solely “composed of peaceful, settler communities, with colonists who enjoyed the rights of freeborn Englishmen and who possessed a preeminent commitment to trade rather than dominion.”⁴¹² While the aftermath of the Seven Years’ War may have revealed, as Christopher Brown has argued, the hypocrisies and inconsistencies of this peaceful and mercantile conception of the British empire, and the American War might have driven some Britons, as Kathleen Wilson argues, to feel that the empire “had become the imperium of palpable alien colonial subjects,”⁴¹³ the British empire in the Mediterranean could never have been imagined as either. From the start, it was neither the domain of free, white, Protestant Britons, nor a territory populated by “alien people incorporated

⁴¹⁰ Tito Benady, “The Role of Jews in the British Colonies of the Western Mediterranean.” *Jewish Historical Studies* 33 (for 1992 1995): 45–63.

⁴¹¹ Kathleen Wilson, *The Island Race: Englishness, Empire and Gender in the Eighteenth Century* (Routledge, 2002), 11.

⁴¹² Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (The University of North Carolina Press, 2006), 205-206.

⁴¹³ Kathleen Wilson, *Island Race*, 11.

into the empire by conquest.”⁴¹⁴ Instead, a diverse and mobile population of erstwhile “British subjects” formed an empire of people, rather than territory, an empire that was governed by interlocking and contradictory treaties rather than by sheer subjugation or conquest. This unique imperial sphere would develop through the resourceful ways that sailors, subjects, diplomats and administrators negotiated, interpreted and accommodated those treaties.

British bureaucrats in London and Menorca might grumble about Menorcans never being loyal subjects, or hatch schemes to expel the Jewish population from Gibraltar. However, the realities of governing these tiny and vulnerable military outposts meant that Britain’s new “alien colonial subjects” were not only important to the empire’s survival, but were also, increasingly, indispensable. It is true that governors and politicians sometimes (perhaps often) espoused the notion that the inhabitants of the Mediterranean outposts were simply problematic aliens, foisted upon the British and either banned or protected by a treaty with a hostile and watchful neighbor. These administrators were not, as I will describe in Chapter 5, paragons of tolerance or inclusion. But the treaties that continually expanded royal protections for Mediterranean “aliens” speak louder than the petty bigotry of individual British administrators. New subjects were essential to British naval expansion in the Mediterranean and, by extension, their quest for global dominance. As the century wore on, the British expanded and extended royal rights and protections—populating their maritime Mediterranean realm with diverse and mobile subjects. In turn, those subjects, unaware (and probably uninterested) in the crisis of empire and identity that loomed in Britain’s future, would

⁴¹⁴ Peter Marshall, *Empire and Authority in Later Eighteenth century Britain*,” *Journal of Imperial and Commonwealth Studies*, 15 (1987), 115

not only negotiate, interpret and translate the *treaties* that ruled their lives, but also what it meant to be a “*British Subject*.”

Chapter 3. Civilities and Offences: Diplomacy, Trade and Courting the Maghreb

In March 1756, Moroccan ambassador ‘Abd al-Karim b. Zakur (known to the British as Benzacor) arrived in England. He wore “no Shirt, and a loose Garment of white Swanskin” covering his head and body, drawing a large number of curious spectators.⁴¹⁵ He became popular in London society during his short stay. Admired for his polite manners, he attended the theater, and dined with many of London’s political and social elite, including Secretary of State Henry Fox and his wife, Lady Caroline, who declared him the “best bred of all the foreign ministers.”⁴¹⁶ In a letter to Fox, Benzacor thanked him for the “unspeakable favours, honours & civilities” that Fox, Lady Caroline, and the “glorious English Nation” had shown him.⁴¹⁷ Benzacor was on an important political mission. He bore a letter for King George II from Sidi Muhammad b. ‘Abd Allah —“the prince of Safi,” son of the Emperor of Morocco. The prince was displeased. His displeasure with England had begun when Gibraltarians began trading illicitly with cities in the rebellious northern region of Morocco—the Tanja. Trade with the port cities of Tétouan, Tangier, Asilah, and Salè were vital for the survival of the garrison at Gibraltar, and Britain had concluded a commercial treaty with the emperor of Morocco in 1750.⁴¹⁸ The Tanja, however, had been slipping from the Emperor’s grasp for some time, and in 1755, Emperor Mawlay ‘Abd Allah,⁴¹⁹ made his son viceroy of Morocco’s coastal

⁴¹⁵ “Exeter, March 23,” *Derby Mercury*, March 26, 1756.

⁴¹⁶ *Old Maid*, May 8, 1756, Issue XXVI; Mrs. George Grenville to her husband, April 20, 1756 quoted in Horace Walpole, *The Letters of Horace Walpole, Earl of Orford vol. 3*, Peter Cunningham ed. (London: R. Bentley, 1891), 10.

⁴¹⁷ Abdelirim Benzacor to Henry Fox, 11 May 1756, The National Archives (hereafter TNA) State Papers (hereafter SP) 71/20 f. 34.

⁴¹⁸ Treaty between Great Britain and Morocco signed at Fez, 15 January 1750, *Hertslet’s Commercial Treaties vol. 1* (London: H.M.S.O.: 1905), 96.

⁴¹⁹ Abu ‘Abbas Mawlay ‘Abd Allah b. Isma‘il al-Samin

regions—charging him with the task of consolidating imperial power and bringing the wayward provinces under control. The Prince’s letter made it clear that Morocco would not tolerate any unauthorized trade with the Tanja:

Your proceeding to [the Emperor’s] lands without his permission, and carrying away from them what you wish without order, is an act of insolence on your part against the Caliphate and a belittling of its rights...If somebody were to come to one of your lands and carry away from it that which you could not assent to...without your permission, what would you do to him if you were able? Doubtless you would meet it with prompt punishment.

Perhaps even more importantly, the Prince alleged that the governor “and those with him in Gibraltar concluded a peace with the *qā’ids* of the ports secretly among themselves”...an offense for which Sidi Muhammad threatened “the cruellest of deaths without delay or hesitation.”⁴²⁰

To resolve the situation, the King empowered Captain Hyde Parker to serve as British envoy. Three months later, he arrived in Morocco, charged to “put an end to all such Differences” and “assure the Prince of our regard for his person and his eminent Qualities” and of course, most importantly, to avoid “Inconveniences that may happen to the Trade and Navigation of our subjects.” Instead, Parker refused to enter Marrakesh unless 500 horses came to meet him, failed to remove his hat or boots during his audience with the Prince, and “by his ill manners and bad conduct...made war instead of peace.”⁴²¹ Parker came away convinced that “his majesty’s Subjects can never have a sufficient Security from any treaties with this Prince till he has been Convinced by experience how

⁴²⁰ Muhammad b. ‘Abd Allah to George II, 2 January 1756, TNA SP 102/4 f. 104, translated in J. F. P. Hopkins, *Letters from Barbary, 1576-1774: Arabic Documents in the Public Record Office* (London: Oxford University Press, 1982), 77-79.

⁴²¹ John Court to Adams & Hosier, 7 August 1756, TNA SP 71/20 f. 53; Muhammad b. ‘Abd Allah to Jarvis Maplesden, 7 November 1756, TNA Admiralty Papers (hereafter ADM) 1/382 ff. 514-515.

necessary a peace with England is to his own affairs and how much is in the King my Royal Master's power to humble his Pride.”⁴²²

Historians have argued that by the eighteenth century, the “Barbary States” had lost much of their bargaining strength against European empires. Nabil Matar, for example, argues that the house arrest of Moroccan ambassador Bentura de Zari in London in 1713 demonstrates that power had shifted toward Europe by the eighteenth century. “No ambassador,” claims Matar, “seemed to have undergone the kind of humiliation that the Moroccan ambassador experienced in London between 1710 and 1713...Bentura fell victim to the imbalance of power between Britain and the Islamic Mediterranean that marked the beginning of European imperial ascendancy.”⁴²³

What, then, would be the result of Parker's disastrous meeting with Sidi Muhammad in 1756? Would the king follow Parker's advice and take steps to “humble” the Prince's “pride”—presumably with a show of naval might? Although European economic and military domination of the Mediterranean gradually lessened the threat of capture by North African corsairs, Britain's acquisition of Gibraltar and Menorca in 1714 meant that the Barbary States had to be reimagined as (often difficult) allies rather than feared adversaries. Britain's tiny military outposts in the Mediterranean were surrounded by hostile European neighbors and had few natural resources. The British often had to depend on provisions from Morocco, Algiers, Tunis, and Tripoli to maintain their military dominance. Because of this, diplomacy with smaller Mediterranean states, especially

⁴²² Parker to Admiralty, 19 July 1756, TNA SP 71/20 f. 46.

⁴²³ Nabil Matar, *Europe Through Arab Eyes, 1578-1727* (New York: Columbia University Press, 2009) 232-233. De Zari's house arrest in London was in retaliation for attacks on British shipping. See TNA SP 71/16 ff. 63-65; ff. 70-71.

with the Maghreb, was an important, if not always well-executed business. Following Parker's calls to "humble" the Prince's pride, Captain Jarvis Maplesden wrote to Sidi Muhammad. He told the prince that he was "very sorry to hear of Captain Parker's bad conduct and Rude behavior" which he promised to report to the King, who would "be as much disgusted at his behavior to you as your Imperial Highness, and Correct Mr. Parker accordingly."⁴²⁴ The fear, prejudice, and chauvinism, that characterized many British missions to North Africa made diplomatic relations difficult and often tense. However, angry reports from British envoys of cruelty by the sultan, *bey*, or *dey*, and suggestions of the "good effects produced by ordering Cruisers on his coast," usually produced conciliatory letters of apology rather than shows of force from the British King, Queen, or ministry.⁴²⁵ A decade after Parker's mission, similar calls for gunboat diplomacy from Consul James Bruce in Algiers were ignored and eventually led to his replacement.⁴²⁶

Matar's contention that Ambassador Bentura de Zari's confinement in 1713 signaled a new "imbalance of power between Britain and the Islamic Mediterranean," does not, then, tell the whole story. In fact, imprisonment of British consuls in North Africa was a common occurrence throughout the eighteenth century—usually with little response from the ministry and no violence from the Navy. Between 1729 and 1758 at least five British diplomats in Morocco received similar treatment. In 1729, James Argatt, vice consul at Tangier was put under house arrest when the ransom for 23 captives was

⁴²⁴ Jarvis Maplesden to Muhammad b. 'Abd Allah, 7 November 1756, TNA ADM 1/383 f. 519.

⁴²⁵ William Peticrew to Fox, 8 February 1756, TNA SP 71/20 f. 15.

⁴²⁶ "Bruce, James, of Kinnaird (1730–1794)," Nigel Leask in *Oxford Dictionary of National Biography*, ed. H. C. G. Matthew and Brian Harrison (Oxford: OUP, 2004); online ed., ed. Lawrence Goldman, May 2006, <http://www.oxforddnb.com/view/article/3734> (accessed January 5, 2015).

late in arriving.⁴²⁷ Consul Sollicoffre's interpreter was burned alive when negotiations broke down in 1732.⁴²⁸ Consul Latton was confined under armed guard in Tétouan in 1749 when he did not pay a debt to the *qā'id*.⁴²⁹ In 1758 Consul-General James Reed committed suicide in Rabat after he and Lieutenant Grosvenor were thrown into a dungeon and threatened with death unless they signed over 20,000 dollars.⁴³⁰ Similar scenes unfolded in Algiers, Tunis, and Tripoli, when British consuls ran afoul of North African leaders, or tensions over trade agreements or abuse of Mediterranean passes arose. William Latton's frantic letters to merchants in Gibraltar and to Admiral Keppel demonstrate the danger many British diplomats felt they were under in such situations. "I offer all that I have in the world," Latton wrote in June 1749, beseeching the British government or merchant community to come to his aid, "and leave myself destitute, for the dread I am under is not Chymical but real."⁴³¹ While Latton's somewhat hysterical letters are tinged with the prejudiced language of "barbarism" evident in much British correspondence from North Africa, his fears of physical violence were not unfounded. In 1755, Sidi Muhammad would kill William Mounteney, a British merchant he suspected of facilitating the illicit trade between Gibraltar and the Tanja, and seize all of his property.⁴³² Despite these many "insults and offences," the ministry tried earnestly, if often unsuccessfully, to court the Sultan's favor. As Ramón Lourido Díaz points out,

⁴²⁷ Philip George Rogers, *A History of Anglo-Moroccan Relations to 1900* (Foreign and Commonwealth Office, 1991), 89.

⁴²⁸ Rogers, *Anglo-Moroccan Relations*, 89. See TNA SP 71/17 f. 489.

⁴²⁹ William Latton to William Tanner, 7 June 1749, TNA ADM 1/383 f. 12.

⁴³⁰ "... Narrative Humbly offered to the Rt. Honorable William Pitt by Mr. Grosvenor in His Majesty's Marine Forces," 17 February 1758, TNA SP 71/20 ff. 164-166.

⁴³¹ Latton to Admiral Keppel, 16 June [1749], TNA ADM 1/383 f. 17.

⁴³² Rogers, *Anglo-Moroccan Relations*, 96.

attempts to make peace with Sidi Muhammad would cost the British government an enormous amount—by his calculations £78,853 between 1756 and 1760.⁴³³

Matar highlights the diminishing power of North Africa in Mediterranean affairs by stressing the difference between the “Moors who were powerful and rich, and much invoked by Queen Elizabeth, and Moors who were wandering haplessly on the streets of London under an indifferent king George I.”⁴³⁴ Nineteenth-century historian Edward Salmon assessed Hyde Parker’s mission to Morocco by lamenting the “energies of men whose duty it was to safe guard the interests of the Empire from the attacks of the greatest power on the Continent” (France) being “frittered away by concern for the amour propre of a petty Prince in North Africa.”⁴³⁵ What neither appraisal takes into account is that while less formidable in military terms, the Maghreb in fact played a vital role in the fight for British ascendancy over the “great European powers” in the eighteenth century. Relations between Britain and North Africa had indeed changed since the seventeenth century, but it is overly hasty to dismiss the importance of these states while assessing British power in the Mediterranean. Provisioning Mediterranean bases that were far from England and surrounded by major imperial rivals required fostering trade and positive diplomatic relations with North Africa. Further, the threat of North African privateers to British merchant shipping meant that Britain made, renewed, and revised treaties with North African states regularly between 1682 and 1816—when the leaders of Tripoli,

⁴³³ Lourido Díaz includes the missions of Parker, Read, Cleveland, and Milbank: see Ramón Lourido Díaz, “Relaciones Políticas Anglo-Marroquíes En La Segunda Mitad Del Siglo XVIII,” *Hispania: Revista Española de Historia* 118 (1971): 341.

⁴³⁴ Nabil Matar, *Britain and Barbary, 1589-1689* (Gainesville: University Press of Florida, 2005), 10.

⁴³⁵ Edward Salmon, *Life of Admiral Sir Charles Saunders, K.B.* (London: Pitman, 1914), 81.

Tunis, and Algiers abolished Christian slavery.⁴³⁶ As I discuss in Chapters 2 and 4, these treaties with North Africa not only helped provide support for Britain's military presence in the Mediterranean, but would also drastically widen the group of people who had access to the rights, privileges, and documentary identification of British subjecthood. Further, the failure of British diplomats to broker peace effectively with the Barbary States often necessitated the intervention, mediation, and diplomatic skills of Mediterranean peoples who were often not, by any legal rights of *jus soli*, Britons. Nevertheless these intermediaries were vital actors on behalf of the British Empire; fostering trade, making deals and composing treaties with the Barbary States that would help sustain the Mediterranean colonies.

Contrary to any notion of British imperial hegemony, even in the eighteenth century, British power in the Mediterranean depended on deferential diplomacy with North African states to foster peace and trade. As the British goals in the Mediterranean shifted from maintaining trade with the Levant to maintaining a strategic naval presence that would give them an upper hand in the imperial competitions of the eighteenth century, provisioning their military outposts became increasingly important. As late as 1771, Secretary of State Rochford reminded Consul-General Sampson that a principal reason Britain must "keep up a strict friendship with the Emperor is the convenient supply of the Garrison of Gibraltar."⁴³⁷ Although political patronage, incompetence, and cultural chauvinism meant that envoys such as Parker often failed in their diplomatic

⁴³⁶ See *Hertslet's Commercial Treaties Vol. I*.

⁴³⁷ Secretary of State Rochford to Consul-General Sampson, 29 March 1771, TNA Foreign Office (hereafter FO) 52/2.

missions, Britain stood steadfastly determined to maintain good relations with North Africa. Moroccans like Benzacour might well still receive “unspeakable favours, honours & civilities” in London, while in the Mediterranean, local intermediaries would help smooth the jagged edges of British diplomacy.

MEDITERRANEAN DIPLOMACY IN PRACTICE

By the autumn of 1756 Sidi Muhammad was growing impatient with the creeping wheels of British diplomacy. “If the English Consul does not arrive at the 1st of March to my Court,” he wrote in a letter to the latest in a long line of short-lived British envoys, “then the Treaty’s are Expired, and warr will begin by Sea and Land.”⁴³⁸ For Sidi Muhammad, a British consul-general was vital to consolidating his power in Morocco and would help him gain control over British trade in Morocco’s wayward northern cities. It seemed clear from Gibraltar’s negotiations with the insubordinate governors of Asilah, Salé, Tangier, and Tétouan, that the imperative of provisioning the garrison and town would supersede any treaties Sidi Muhammad’s father had made with the British, and certainly any compunction the British might feel about interfering with Moroccan imperial sovereignty. With a consul general stationed at his court, the Prince might be able to amputate the more local trade negotiations taking place at the nether regions of his empire. By reinstating a consular relationship with Britain on his own terms, Sidi Muhammad sought not only to reestablish trade relations with Gibraltar, but in so doing, bring the northern provinces back under his control. “I shall not listen any more to your promises or Excuses,” Sidi Muhammad threatened, “and my Ships and Galleons at Sea

⁴³⁸ Buzgalo de Paz to Jarvis Maplesden, October or November 1756, TNA ADM 1/383 f. 514.

shall look out for you and take you wherever they meet you and Gibraltar shall be deprived of all sorts of supply from my Dominions from which they shall not have even a Drink of Water.’’⁴³⁹

Consuls, Admirals, Trade and Diplomacy

Although consuls in North Africa had developed a significant role in state diplomacy, from their inception in the late fifteenth century consulates were linked more clearly with serving subjects in merchant communities far from the British Isles than with serving the English state.⁴⁴⁰ Consuls lived in ports across the globe, and helped British merchants and captains with customs procedures and paperwork. They were called upon to settle disputes among the merchants or sailors of their nation, and most broadly, were expected to secure their civil and religious rights abroad.⁴⁴¹

Before the mid-seventeenth century, consuls were largely chosen by the English merchants in important port cities, or by trading companies. In 1605 James I extended the Levant Company’s charter “for ever,” along with the right to appoint consuls and to

⁴³⁹ Sidi Muhammad to Parker, July 1756, TNA SP 71/20 f. 85.

⁴⁴⁰ Roger Dawson brought a legal case against “John Falcone, the English Consul” at Venice sometime possibly between 1433-1443, or more likely 1467-1472. See Vatazi v. Dawson, TNA Chancery (hereafter C) 1/45/111. Henry VIII also established consuls in Venice, and in 1530 and Charles V sanctioned English consuls at Andalusian ports. See Georg Schanz, *Englische Handelspolitik Gegen Ende Des Mittelalters, Mit Besonderer Berücksichtigung Des Zeitalters Der Beiden Ersten Tudors, Heinrich VII Und Heinrich VIII* (Leipzig: Verlag Von Duncker & Humboldt, 1881), 133; 159-160; 278, 280-281 cited in Violet Barbour, “Consular Service in the Reign of Charles II,” *American Historical Review* 33, no. 3 (April 1928): 553–78, 556.

⁴⁴¹ Wyndham Beawes and Jacques Savary des Brûlons, *Lex Mercatoria Rediviva: Or, The Merchant’s Directory* (Dublin: James Williams, 1773), especially 229-232; Violet Barbour, “Consular Service in the Reign of Charles II,” *American Historical Review* 33, no. 3 (April 1, 1928): 553–78, 567; David Bayne Horn, *The British Diplomatic Service, 1689-1789* (Oxford: Clarendon Press, 1961), Chapter 13.

assess duties upon merchandise and ships.⁴⁴² The company chose the consuls for most of their factories, and those consuls paid the company security for the rights to collect port duties in lieu of a salary.⁴⁴³ In the Aegean, for example, consuls were appointed by the Levant Company until 1825.⁴⁴⁴ In the western Mediterranean a system of “mercantile consuls” developed whereby local British traders were responsible for the choice of a consul from among their ranks. Two things were paramount to the success of these consulates: recognition by the local government and the cooperation of British traders. Recognition by the British state was mostly a formality and consuls before the mid-seventeenth century were not state officials.⁴⁴⁵ This would all change, however, with the new global trade policies of the Commonwealth in the mid-seventeenth century.

In keeping with his program of state-sponsored overseas commercial expansion, Oliver Cromwell and the Commonwealth were the first to link the role of consul explicitly to the larger goals of the English state. Rather than serving the narrow needs of company functionaries or factory agents, consulates would express the alignment of state policy and global trade—an innovation that would be only haltingly realized over the course of the next two centuries. In 1649 the Council of State instructed trading companies to present the names of anyone employed as ambassadors or consuls for approval.⁴⁴⁶ Some months later, an Act of Parliament directed consuls to “use all good

⁴⁴² TNA FO 78/136 ff. 414-21. See Lucia Patrizio Gunning, *The British Consular Service in the Aegean and the Collection of Antiquities for the British Museum* (Burlington VT: Ashgate, 2009), 14.

⁴⁴³ Mortimer Epstein, *The Early History of the Levant Company* (London: G. Routledge & Sons, 1908), 96.

⁴⁴⁴ Gunning, *British Consular Service in the Aegean*, 13.

⁴⁴⁵ Desmond Christopher Martin Platt, *The Cinderella Service: British Consuls since 1825* (London: Longman, 1971), 6.

⁴⁴⁶ Platt, *Cinderella Service*, 8.

Ways and Means, for the Securing, Advancement, and Encouragement of the Trade of *England and Ireland*, and the Dominions to them belonging; and to promote the Good of all Foreign Plantations and Factories belonging to this Commonwealth, or any of the Natives thereof.” It also charged them with protecting the rights of English subjects abroad and with keeping a “good Correspondency, with Foreign Kingdoms and States.”⁴⁴⁷ This policy, like many of the trade policies adopted by the commercial policies of the Commonwealth, continued after the Restoration.

Despite the fact that they were now considered state officials, both merchants and legal theorists continued to see consuls as representatives of merchant communities, rather than diplomatic agents of the crown. British merchant Wyndham Beawes wrote in his *Merchant's Directory* “a consul is no public minister as he has no affairs of state to manage.”⁴⁴⁸ Dutch Jurist Cornelius van Bynkershoek concluded that “consuls are nothing but the defenders of the merchants of their country and at times also their judges; furthermore they are generally merchants themselves, not sent to represent their prince in the country for another prince, but to protect the subjects of their prince in the country of another prince.”⁴⁴⁹ In this vein, the House of Commons passed a resolution in 1663 that “no consulary Power be continued, or hereafter granted, to any Persons, but at the Desire of the Merchants, and by their Nomination.” Although Charles II asserted his royal prerogative, declaring that consuls were “Agents to maintain the Privileges of the Nation,

⁴⁴⁷ “House of Commons Journal Volume 6: 13 February 1649,” *Journal of the House of Commons: 6, 1648-1651* (London: H.M.S.O., 1802), 138-140.

⁴⁴⁸ Wyndham Beawes and Jacques Savary des Brûlons, *Lex Mercatoria Rediviva: Or, The Merchant's Directory* (Dublin: James Williams, 1773), 260.

⁴⁴⁹ Horn, *Diplomatic Service*, 239.

and the Articles of Peace made for the Advantage of it,” he promised that “Care shall be taken to nominate none, but...as the Merchants shall think fit, in their respective Factories.”⁴⁵⁰

The number of British consuls grew as England expanded its maritime trade throughout the seventeenth century—and by the eighteenth century they served in trading ports across the world. Despite this growing global diaspora, consulates remained the least prestigious of the diplomatic service—largely comprised of bankrupt traders or lower level functionaries rather than gentlemen.⁴⁵¹ As M.S. Anderson describes them, North African consuls often let disputes “grow into serious quarrels,” and “were not always equal to the dangers and opportunities of their position.”⁴⁵² Because the government did not provide salaries with all of its consular posts, the exact number and location of consulates is difficult to trace.⁴⁵³ John Dickie has calculated that by 1740 the Crown had only fifteen British consuls, thirty-nine by the 1750s, and forty-four by the end of the century—although to what extent he includes consuls appointed by chartered companies or vice consuls residing in smaller ports, is unclear.⁴⁵⁴ Consuls chosen by the

⁴⁵⁰ “House of Commons Journal Volume 8: 7 April and 16 May 1663,” *Journal of the House of Commons: Volume 8, 1660-1667* (London: H.M.S.O. 1802), 467-468, 484-485.

⁴⁵¹ For example Moroccan consuls Anthony Hatfield, Joseph Popham and James Sampson were impoverished merchants. See Cornwallis to Rochford, 27 April 1772, TNA CO 91/18; Curtis to Nepean, 28 April 1783, TNA FO 52/5. Consul at Tripoli George Cooke (1777- 8) had been a clerk in the secretary of state's office, Consul at Tunis Charles Gordon (1750-65) served for many years as a clerk to the board of ordnance, and Moroccan consul James Read (1757-8) had been pratique-master at Gibraltar.

⁴⁵² M.S. Anderson, “Great Britain and the Barbary States in the Eighteenth Century,” *Bulletin of the Institute of Historical Research* 29 (1956): 106.

⁴⁵³ Charles Ronald Middleton, *The Administration of British Foreign Policy, 1782-1846* (Durham, N.C: Duke University Press, 1977), 18.

⁴⁵⁴ Dickie, *British Consul*, 11. Unfortunately Dickie cites no sources for his calculations. Barbour has calculated that Consulates existed in some thirty-four or more foreign ports in the reign of Charles II including consulates established at Elsinore, Ostend, Dunkirk, Bordeaux and Rochelle, Bayonne, Bilbao

ministry were largely clustered in the Western Mediterranean where government, rather than private companies, was increasingly responsible for facilitating British trade and sustaining the colonies. Consuls there became important in supporting the naval presence that, in many ways, became the *raison d'être* for Britain's meager Mediterranean territorial holdings.⁴⁵⁵ In 1725, the only crown-appointed consuls stationed outside of the Mediterranean were in the Canary Islands, well within the sphere of British ships traveling into and out of the straits of Gibraltar.⁴⁵⁶

Because consulates were first established by and for merchant communities and factories, many consular officials received no salary from the Crown, and depended for their income on the port fees they charged for the loading and unloading of British ships and for the certification of ships' papers, and the distribution and monitoring of Mediterranean passes. Consuls could, however, significantly increase their income by being appointed prize agent in time of war. Although most consuls' salaries were meager or non-existent, consuls in North Africa were an exception from an early date. In 1681 Charles II ordered the Treasury to consider whether 'any allowances be made to any of his Majesty's consuls at any place upon the coast of Barbary or elsewhere...for the

and San Sebastian, Gijon, Corufia and Pontevedra, Oporto (vice-consulate), Lisbon, Madeira, Canaries, Cadiz and Porto Santa Maria, Seville and San Lucar, Malaga, Alicante, Mallorca, Santa Cruz in South Barbary, Algiers, Tunis, Tripoli, Marseilles and Toulon, Villa Franca and Nice, Genoa, Leghorn, Naples, Messina, Malta the Lipari Islands, Gallipoli, Zante, the Morea, Venice, Cyprus, Smyrna, Aleppo, Cairo (not officially recognized) and agents of a "somewhat consular character," at Rouen, Amsterdam, Rotterdam, Middelburg, Danzig, and Hamburg. See Barbour, "Consular Service in the Reign of Charles II," 578.

⁴⁵⁵ These ports included Cadiz, Tunis, Barcelona, Nice, Livorno, Genoa, Naples, and Tripoli and on into more easterly ports under the Levant Company, such as Smyrna and Zante.

⁴⁵⁶ See "A List of his Majesty's Consuls Abroad, 1725" [John Chamberlayne], *"A General List or Catalogue of All of the Offices and Officers Employed in the Several Branches of his Majesty's Government..."* (London: 1725), 231.

Encouragement of the sayd Consuls, to enable them to perform their duties.”⁴⁵⁷ Because they often took on roles as diplomatic envoys and were responsible for negotiating the release of captives, consuls in North Africa were some of the most highly paid consuls on the civil list well into the eighteenth century.⁴⁵⁸ By 1754 the consuls at Algiers, Tripoli, Tétouan, and Tunis had set salaries as well as annual allowances for “extraordinary expenses.”⁴⁵⁹

Despite their relatively generous pay, letters from consuls in North Africa to the Secretaries of State are rife with complaints about lack of funds. Moroccan consuls Latton and Petticrew were each imprisoned for a period of time because of debts they owed the Moroccan government,⁴⁶⁰ and consuls Petticrew and Popham were often reluctant to attend the imperial court because of the large sums of money they were expected to bring as a gift to the Emperor.⁴⁶¹ After paying off a major backlog of expenses claimed by Barbary consuls in 1754, the Treasury gave North African consuls an additional salary for expenses other than redemption of captives. The ministry hoped these extra funds would “prevent all future Bills,” that consuls might forward to London.

⁴⁵⁷ “What to allow the Consuls abroad,” 28 July 1681, TNA PC 2/69 f. 167.

⁴⁵⁸ Horn, *British Diplomatic Service*, 246.

⁴⁵⁹ 1742 salaries for consuls were : Algiers: £600 and £500 extraordinary allowance per annum; Tripoli: £380 and £250 extraordinary allowance; Tétouan £250. See Historical Manuscript Commission (hereafter HMC) Eleventh Report, Appendix, Part IV, *The Manuscripts of the Marquess Townshend* (London: H.M.S.O., 1887), 126. 1754 salaries for consuls were: Tétouan £400 and £250 extraordinaires “in lieu of all demands” and Tunis £300 and £200 extraordinary “in lieu of all demands,” see George II of England: List of Foreign ministers, with their allowances: 1754, BL Add MS 32737, f. 550. See also Horn, *Diplomatic Service*, 246.

⁴⁶⁰ William Latton, Tétouan, to William Farmer, 7 June 1749, TNA ADM 1/383 f. 12; Governor Fowke to Robinson, 3 October 1755, TNA CO 91/11 f. 439.

⁴⁶¹ Governor Fowke, 10 September 1755, TNA CO 91/11 f. 437; Stanhope to Jenkinson, 8 December 1764, Treasury Entry Book v. 1, 1763-75, Calendar of Home Office Papers of the Reign of George III: 1760-1775 (London: H.M.S.O., 1878), 471-472.

They did not.⁴⁶² Indeed it was not uncommon for consuls to go heavily in debt to local merchants. Arguments about the extent to which the crown was responsible for discharging those debts exposed consuls' liminal status as both diplomats and individuals engaged in a world of private trade. When Consul Stanyford died in Algiers, leaving £1,000 in debts to members of the Dey's court, negotiations between Britain and Algiers lasted for three years until the British government agreed to discharge his debts in the name of political pragmatism.⁴⁶³

The Rise of Patronage

In his 1589 *Voyages and Discoveries*, Richard Hakluyt wrote enthusiastically of the global reach of English trade: "Who ever found English Consuls and Agents at Tripoli in Syria, at Aleppo, at Babylon, at Bakara, and, which is more, who ever heard of Englishmen at Goa before now?"⁴⁶⁴ The spread of consulates throughout global ports seems indicative of the growing empire of trade—representing a nation's merchants and their commercial interests in maritime ports around the world. In the context of a so-called "blue water empire," the spread of consulates around the world might represent the reach of an empire that was "Protestant, commercial, maritime, and free."⁴⁶⁵ Despite the fact that the English state confirmed consular appointments from the mid-seventeenth century, many consulates continued to be filled by men nominated by local merchants or

⁴⁶² See "Response to Petticrew's Bills of January 1756," 8 February 1756, TNA SP 71/20 ff. 19-21. For Petticrew's debts see "Expenses Occasion'd to William Petticrew," TNA SP 71/20 f. 12 and Petticrew to Claudius Amyand, 24 January 1756, TNA SP 71/20 f. 10.

⁴⁶³ See Haim Zeev Hirschberg, *A History of the Jews in North Africa* vol. 2. (Leiden: Brill, 1974), 27.

⁴⁶⁴ Richard Hakluyt, *The Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation: Northern Europe* (Edinburgh: L. E. & G. Goldsmid, 1884), 6.

⁴⁶⁵ David Armitage, *The Ideological Origins of the British Empire* (Cambridge: Cambridge University Press, 2000), 8.

charter companies. As the imperial competition of the eighteenth century intensified, however, consuls were increasingly integrated into the machinery of imperial warfare. They facilitated communication between foreign governments and London, sent military and commercial intelligence to governors, admirals, ambassadors, and the ministry. They often assessed the legality of prizes taken by privateers in wartime, and could play important diplomatic roles, especially in territories with unclear or changing sovereignty such as the semiautonomous Ottoman Regencies, or Italian states such as Tuscany. In Morocco, the consuls in port cities such as Tétouan, Tangier, Asilah, and Salè facilitated the crucial trade with Gibraltar, and were called on to certify the subjecthood of captives brought to port by privateers. Unlike consuls in Spain or France, they also played important roles as ambassadors—often helping to negotiate treaties. Consuls signed their names to ten treaties with the Barbary States between 1662 and 1700, and had much closer interactions with kings and courts than British consuls in many other areas of the world.⁴⁶⁶ Sidi Muhammad's insistence that the British government send a consul was not solely for the purposes of facilitating trade—a consul general in Morocco would mean a full time diplomatic representative of the crown who could negotiate and ratify treaties, and help steady the unstable balance of hostility and cooperation between the two states.

Despite the rapidly expanding “empire of trade” of the eighteenth century, consular posts were increasingly filled through political patronage. Appointments did not often take into account the mercantile or maritime experience of the candidate—a trend that became more pronounced throughout the eighteenth century. Until well into the

⁴⁶⁶ See *Hertslet's Commercial Treaties, Vol. I* (London: H.M.S.O., 1840), 58-117.

nineteenth century there were no requirements for appointment to the consulate. Linguistic skill, cultural understanding, experience with trade or merchant shipping—all of which were central to daily consular duties—were not requisite for a consular appointee. In 1822 *The Times* wrote that the British diplomatic service was largely composed of “men wholly unfit for the office...either military men, court retainers or other persons quite ignorant of commercial affairs.”⁴⁶⁷

Generally, the Secretaries of State were charged with choosing the consuls in their department, and the competence of these consuls could vary drastically depending on each secretary’s experience with foreign affairs and their willingness to put international trade or diplomacy ahead of political favors.⁴⁶⁸ James Bruce, for example, under the patronage of Lord Halifax, hoped that his appointment as Consul General of Algiers would provide him with a post from which he could, “draw a comfortable salary and save his own time for more interesting things,”⁴⁶⁹ namely exploring ancient ruins in North Africa—the illustrations of which he planned to present to King George III on his return.⁴⁷⁰ Bruce took over the consulate during a period in which the recently re-conquered Menorca was in political and economic disarray and the ensuing confusion and corruption generated intense disputes about the abuse of Mediterranean passes. Unequipped to handle the mayhem with any diplomatic finesse, Bruce was deeply

⁴⁶⁷ “The Petition of the British Merchants at Rio Janeiro,” *The Times*, April 23, 1822, 3.

⁴⁶⁸ Mark Alméras Thomson, *The Secretaries of State, 1681-1782* (Oxford: The Clarendon Press, 1932), 101.

⁴⁶⁹ J. M. Reid, *Traveller Extraordinary: The Life of James Bruce of Kinnaird*, by J. M. Reid (London: Eyre & Spottiswoode, 1968), 39-41.

⁴⁷⁰ Nigel Leask, “James Bruce of Kinnaird (1730–1794),” in *Oxford Dictionary of National Biography*, ed. H. C. G. Matthew and Brian Harrison (Oxford: OUP, 2004); online ed., ed. Lawrence Goldman, May 2006.

unpopular with the Dey, the merchant community, and the ministry. The self-satisfied, self-righteous, war-mongering Bruce finally resigned in 1764, after the Dey sent envoys to London, and Bruce's calls for naval attacks on Algiers were tactfully ignored.⁴⁷¹

Charles Black: From Mercantile Consul to Political Beneficiary

In the career of Charles Black, we see many of the challenges and paradoxes of eighteenth-century consulates: the growth of appointment through political patronage rather than election by merchant factories, the uneasy links between consuls and merchants, and the diplomatic disadvantages bred by cultural ignorance. In Algiers, Black's appointment over longtime merchant Edward Holden, signaled an end to the close trade relations with *deys* that British firms had enjoyed earlier in the century. His career, and its rather ignominious end, are an example of the failures of British diplomacy in North Africa, and one reason that the governors of Gibraltar and Menorca would have to find other avenues of negotiation to ensure the garrisons were properly provisioned.

Black, originally a merchant trading with his brother Robert at Cadiz, was appointed consul there around 1720.⁴⁷² Charles and Robert were Belfast traders of Scottish descent who were primarily engaged in trade with Irish and Scottish merchants through the British factory at Cadiz. Black's experience as a merchant in Spain made him an ideal candidate for the position. He spoke Spanish, understood the workings of the merchant community there, as well as the intricacies of the relationship between British traders and the Spanish government. Like most eighteenth century consuls, he

⁴⁷¹ "Three letters of complaint," 16 August 1764, TNA PC 1/7/147; Alexander Murray, *Account of the Life and Writings of James Bruce* (Edinburgh: George Ramsay and Company, 1808), 39.

⁴⁷² Oswald v. Black 1728, TNA C 11/1471/17.

corresponded with the Consul General and Ambassador at Madrid, and gave regular reports to the ministry about the state of trade, the movements of merchant ships and navies, and the current challenges faced by British subjects abroad. Black's linguistic, cultural and political knowledge was an asset to his work as consul, but his personal and professional entanglement with the merchant community led to conflicts between his duty to enforce fair mercantile policy as an agent of the crown, and his personal business interests. Over the course of the eighteenth century, the fact that many consuls worked also as merchants became increasingly problematic, although their meager salaries meant that most continued to engage in private trade.⁴⁷³ As Scottish John Millar argued in 1787, if a consul "be obliged to seek support as a merchant or factor, his eye must be constantly directed to his private advantage; and in this position he ostensibly adopts the doctrine of the trader: "Every man for himself, and God Almighty for us all."⁴⁷⁴

In 1727, a group of merchants from Glasgow brought a case against the Black brothers, claiming that they had consigned to Robert Black & co., "very large quantities of Tobacco and other wares" which the Blacks had sold without giving the Glasgow merchants their fair share of the profits. To make matters worse, the merchants claimed that "Charles did Insinuate that he as Consul would have Several more privileges and

⁴⁷³ This practice, increasingly frowned upon as a conflict of interest was prohibited in 1826, but legalized again in 1835 after complaints that consuls could not survive on the small salaries they received. See "Report from House of Commons Select Committee on Consular Establishment, 1835," *House of Lords Sessional Papers, 1835*, vol. 26, and E. W. A. Tuson, *The British Consul's Manual : Being, a Practical Guide for Consuls, as Well as for the Merchant, Ship-Owner and Master-Mariner in All Their Consular Transactions* (1856), 279.

⁴⁷⁴ John Millar, *An Historical View of the English Government: From the Settlement of the Saxons in Britain, to the Revolution in 1688 : To Which Are Subjoined, Some Dissertations Connected with the History of the Government, from the Revolution to the Present Time. Vol. 4* (London: J. Mawman, 1818), 249.

advantages than other private Traders”—an advantage that the merchants hoped could maximize their profits. Even in the 1720s this conflict of interest seemed illicit, and the Glasgow merchants alleged that in order to avoid any appearance of impropriety, Charles had insisted that the business would be conducted entirely in his brother Robert’s name. In their suit, the merchants maintained that although Robert had made attempts to rectify the situation, Charles steadfastly asserted that he had no part in the deal. Charles’ “ambitious misconduct,” as his brother John would later term it, would, in the end, leave Robert responsible for his brother’s debts, strain Black family relations, and sully Charles’ reputation in the Mediterranean merchant community—in Cadiz as well as in Algiers, the site of his future diplomatic post.⁴⁷⁵

While a consul’s own trade interests might taint his ability to act as an impartial agent, more concerning to British authorities was the loyalty and national allegiance of consuls who were sometimes stationed far from Britain for long periods of their lives. The Westcombes, for example, had lived in Cadiz since the 1660s and almost 90 years later, a Louisa Westcombe was receiving charity from the British Factory at Cadiz.⁴⁷⁶ The elder and younger Martin Westcombes were consuls there until the outbreak of the War of Spanish Succession, and the family stayed in the Mediterranean region well into the

⁴⁷⁵ Oswald v. Black 1728, TNA C 11-1471-17; John Black to Robert Black, 30 June 1744, PRONI D719/14; News of Charles Black’s conduct had apparently spread to the merchant community at Algiers by the time of his appointment as consul there. See George Logie, 16 March 1729/30, TNA FO 133/3 f. 238, and “Part of a letter from Mr. Shaw at Algiers to S. Hans Sloane Baronet,” February 1729/30, TNA FO 133/3 ff. 229-231.

⁴⁷⁶ See for example Consul Martin Wescombe’s (sometimes Westcombe) correspondence concerning the English occupation of Tangier, in HMC, *The Manuscripts of J. M. Heathcote, Esq., Conington Castle* (Norwich: H.M.S.O., 1899). Martin Wescombe (sometimes Westcombe) died in 1691 (TNA PROB 11/406/235) and his son, also Martin Wescombe was consul until around 1701. For Louisa Wescombe, see “National Meeting of the British Factory,” Cadiz, 14 August 1749, TNA FO 332/1 ff. 20-21.

eighteenth century. Westcombe's son, Anthony lived in Corruna and Bilbao, and became Deputy Judge Advocate and Deputy Commissary of the Musters for Menorca.⁴⁷⁷ Even more problematic than so many generations living far from the British Isles was the fact that merchants, and therefore consuls, sometimes married women from local communities, and had children who might be born foreign subjects, potentially calling into question their loyalty to the British crown. In 1721, the consul of St. Sebastian was accused of "becoming of Romish Principles" after he married a Spanish woman.⁴⁷⁸

The late seventeenth and early eighteenth century was a particularly volatile time for British identity and definitions of loyalty. Between the Glorious Revolution, the union of Scotland and England, the Hanoverian succession, and the Jacobite plots and rebellions, the boundaries of loyalty, allegiance, and subjecthood were constantly shifting. The accession of George I and the rise of the Whig supremacy banished Tories from the civil list, while the Jacobite rising of 1715 and subsequent plots of the early eighteenth century brought new partisan fervor to the question of the loyalty of British subjects, and of British diplomats abroad. Reports about the religious persuasions and possible Jacobite sympathies of Britons abroad spread throughout diplomatic circles and streamed into the offices of the Secretaries of State.⁴⁷⁹

In 1724, Charles Black received an anonymous letter from "Philopatria" claiming that the Westcombe family was plotting with Jacobites in France to remove Black from

⁴⁷⁷ Copy of the Warrants issued to Sir Anthony Wescombe, 20 June 1727, TNA SP 41/6 f.166.

⁴⁷⁸ John Roe, Agent for St. Ander, to Secretary of State Carteret, 1 July 1721, TNA SP 94/213 f. 434.

⁴⁷⁹ See for example anonymous letters concerning Jacobites: 1725; 1726, BL Add MS 32744, ff. 202-225; 277-284.

office in order to reinstate the Westcombe consular lineage.⁴⁸⁰ Philopatria claimed that partly “being by process of time, partly from his being married in the Country” and partly the “Bigotry” of his professing himself a Roman Catholic, Martin Westcombe had “become interely Espagnoliz’d.” Although these kinds of accusations about Jacobite plots were rife in this period, Philopatria’s claim was bolstered by the fact that Westcombe wrote several times to the Secretaries of States pleading to be reinstated as consul.⁴⁸¹ Moreover a letter from the Earl of Ailesbury (an exiled Jacobite sympathizer) to his brother claimed that the Westcombes were in Paris meeting with Jacobite leaders at the time of the alleged plot.⁴⁸²

To compound the problem of consular loyalty in Cadiz, the strong and longstanding community of Irish merchants made the British factory politically and religiously suspect. For the merchant community at Cadiz, the very definition of “British” became increasingly confusing as the crown began to take a more active role in the regulation of British trade and British factories abroad. For example, a 1736 act imposed a tax on “all Tonnage Goods imported in British or Irish Ships or Vessels...for the Relief of shipwrecked Mariners, and other distressed Persons His Majesty’s Subjects.” In order to fairly impose this tax, the law mandated that the British consul and factors should appoint two *British* merchants to appraise the value of any merchandise arriving in port

⁴⁸⁰ Philopatria to Charles Black, 19 Aug 1724, TNA SP 94/214.

⁴⁸¹ Westcombe to [Craggs?], 23 September 1720, SP 94/213 f. 366; See also letter regarding letter Westcombe’s application to become Consul at Cadiz: H. Walpole to [Delafaye], 27 May 1724, TNA SP 78/180/52 f. 67.

⁴⁸² Thomas Bruce, 2nd Earl of Ailesbury, to Robert Bruce, 9 April (new system, hereafter ns) 1727, HMC, *Fifteenth Report, Appendix, Part VII, The Manuscripts of the Duke of Somerset, The Marquis of Ailesbury and The Rev. Sir T.H.G. Puleston, Bart.* (London: H.M.S.O., 1898), 228.

without bills of lading.⁴⁸³ The merchants at Cadiz pointed out that the act mentioned *British* and *Irish* Ships but only *British* merchants and factors. The factory asked whether the act should be “construed so as to exclude Irish Men or Irish Roman Catholic Merchants,” and further whether the act was meant to exclude Irish merchants from the factory entirely. Confused about the terminology and its connection to both religion and allegiance, the merchants wrote to the crown complaining that if Britishness was defined in opposition to Irishness, the consul could no longer tender the oath of allegiance to Irish merchants.

The proper meaning of the word British Merchant is such Merchants as come from Great Britain Exclusive of such as come from Ireland or any other Ports and the Distinction...between British and Irish ships and the constant use of the word British only when merchant or Factors are mentioned shew that the word British is to be understood in contradiction to Irish when applied to Merchants or Factors and in exclusion of Irish Men.”⁴⁸⁴

The exclusion of Irish merchants would be particularly problematic at Cadiz, where they had a long history and were in the majority at the British factory. This oppositional and geographical definition of “Britishness” was, perhaps, doubly fraught because the crown had appointed an Irishman, Charles Black, as British consul at Cadiz. Although Charles was a Protestant of Scottish ancestry, the Black family had lived in Ireland since the mid-

⁴⁸³ *An Act for the More Equal Paying, and Better Collecting, Certain Small Sums for Relief of Shipwrecked Mariners and Distressed Persons, His Majesty's Subjects, in the Ports of Cadiz and Port Saint Mary's In the Kingdom of Spain, and for the Uses, Usually Contributed to by the Merchants Trading to the Said Ports*, 1736. See John Raithby, *The Statutes Relating to the Admiralty, Navy, Shipping, and Navigation of the United Kingdom* (London: G. Eyre and A. Strahan, 1823), 171-172.

⁴⁸⁴ “A meeting of the British Factory at the House of John Colebrooke Esquire His Britannic Majesty's Consul,” 13 October 1750, TNA FO 332/1 ff. 24-25. Suggestively, Robert Black, Thomas Cantillon, Richard Butler, Francis Mathew, Edward Hall, John Guthrie, John Lynch, Robert Howe, John Joyce—men with Irish names all present at the previous year's meeting—were not recorded as attending. See Patrick Woulfe, *Irish Names and Surnames* (Dublin: M.H. Gill and Son, 1906).

seventeenth century, and had several Catholic and nonconforming members, some of whom were, in fact, Jacobites or Jacobite sympathizers.⁴⁸⁵

The political and religious turmoil of the early eighteenth century, the diverse nature of the merchant communities, and the experience of long periods in Catholic countries, then, made defining British loyalty and allegiance among subjects living abroad a difficult proposition. Men like Westcombe, who had been appointed under the Stuart monarchy, knighted by William III, and had lived in Catholic Spain since 1660s, might be expected to have divided loyalties. The wave of Jacobite hysteria, however, was not limited to the old guard. Charles Black himself was dismissed from his post after accusations that he was married to a Roman Catholic, had professed the religion himself, and even kept a priest in his house.⁴⁸⁶ His protests that he was a strict Protestant and had never been married were to no avail.⁴⁸⁷

With the growing hysteria over loyalty, religion, and Britishness, Black was removed from office in 1726. During his tenure as consul, however, he had been able to find a patron in the rising political star of William Stanhope, who had been Ambassador at Madrid. The Blacks were a middling trading family with few political ties in England,

⁴⁸⁵ See Chapter 4 .

⁴⁸⁶ "Charles Black, Consul at Cadiz: Memorial to the Duke of Newcastle for reinstatement," n.d. [estimated circ. 1730, but probably between 1726 and 1728] BL Add MS 33057.f. 25; Charles Black to Newcastle, 19 March 1726, TNA SP 94/214.

⁴⁸⁷ Black's Memorial to Newcastle, BL Add MS 33057.f. 25. In a letter from John Black to his brother Robert in 1738, John writes that Robert and Charles' interest in John's family "might proceed from your [...] desire of takeing a view of your spreading Verdant Colaterate branches." This seems to support the idea that Charles never married. See John Black, Bordeaux, to his brother Robert, 1 February 1738, PRONI D1950/13. Charles did, however, have a son, George Charles Black, who, evidence seems to suggest, was born in 1723 (when Charles was at Cadiz). See Reverend George Charles Black (1723-1775), Wellcome Library, Mss.1180-1218, 1233 and 5226. Research has not uncovered who George Charles' mother was or where he was born.

but Charles' foray into diplomatic service and regular correspondence with both the ministry and Stanhope raised his political and social profile.⁴⁸⁸ Even in the face of the dark accusations that he practiced the "Popish Religion," Stanhope's "long experience of his worth, honesty and fidelity" convinced him that Black should be "a great object of his majesty's goodness and compassion." After Black's dismissal, Stanhope was able to convince Newcastle that "the poor man suffered from misrepresentations made against him to the government," and that he should be offered the recently vacated consulate at Algiers.⁴⁸⁹ Black's appointment as consul to Algiers in 1728 would elevate him from factory consul to diplomatic actor, and from unknown merchant to political beneficiary. It would also catapult him into a very different kind of Mediterranean consulate where the stakes for success were much higher, and the room for error considerable.⁴⁹⁰

Black in Algiers

While consuls in Spain were chiefly concerned with the daily business of port taxes, ships' papers, and other bureaucratic workings of merchant maritime life, consuls in the Barbary States had the added task of certifying the subjecthood of captives and the nationality of ships brought into port by Barbary cruisers. They also often had much closer relations with the local heads of state and were more often involved in major diplomatic negotiations—and crises. For these consuls, cultural knowledge and

⁴⁸⁸ John Black was, however, friends with the French Philosopher Montesquieu and seems to have had solid political clout in Bordeaux, evidenced by the length of time he was allowed to remain during the Seven Years War. See Chapter 4.

⁴⁸⁹ H. Walpole and W. Stanhope to Newcastle, 1728 Dec 9, Paris, TNA SP 78/188 f. 398.

⁴⁹⁰ "Allowance warrant for Charles Black, consul at Algiers," 27 May 1729, TNA SP 36/12 f. 149. See also TNA SP 43/78.

understanding was doubly important, both because they could no longer rely on the generalities of “European manners,” but more importantly because they had regular contact with state leaders on matters of slavery and freedom, rather than solely with merchants and sailors of their own nation. Unfortunately, few of the consuls had any skills appropriate to their duties.

The death of a consul usually solicited petitions from local merchants nominating a resident Briton to take the post. The consulship at Algiers was no different. When consul Charles Hudson died, thirty British merchants at Algiers had signed a petition nominating his business partner and longtime resident of Algiers, Edward Holden, for the post. In exchange for providing the Dey with military and naval stores, Holden and Hudson’s firm seems to have had special privileges on exports, including a monopoly on the export of wheat from Oran, under the management of vice-consul John Ford.⁴⁹¹ Holden had been serving as interim consul while the position was vacant, and was, the merchants represented, a man of excellent character, closely acquainted with the religion, laws, and culture of Algiers, and in good standing with the Dey and his council, the *dīwān*.⁴⁹² Due to the intervention of Stanhope and Walpole, however, the ministry sent a consul with no knowledge of North African languages or cultures and who had no conception of the chicanery that would greet him there.

⁴⁹¹ Fisher, *Barbary Legend*, 249.

⁴⁹² Robert Lambert Playfair, *The Scourge of Christendom: Annals of British Relations with Algiers prior to the French Conquest* (Smith, Elder & Co., 1884), 177.

When Black arrived at Algiers, he presented the Dey, ‘Abdi Pasha,⁴⁹³ with his patent to serve as consul. Unlike ambassadors, who carried a letter from the King, consuls required only a patent affixed with the appropriate signature and seals to prove their commission.⁴⁹⁴ Because, however, the Ottoman Regencies did not have their own ambassadors, North African leaders sometimes requested a letter from the monarch as a sign of the consul’s important status as a diplomat, and as a means of keeping frequent communication with the British crown. When the Dey found that Black did not have a letter from the King, he refused to accept him as consul, sending him away until he carried proper communication from the Crown.⁴⁹⁵

It would be easy to interpret the Dey’s actions as a demand for a proper show of respect and closer communication with King George. The *deys* were the military leaders of the port city of Algiers—a dangerous job that they attempted to keep with tight control. From the sixteenth century, Algiers became the center of Ottoman authority in North Africa, and the base from which the Ottoman Empire waged war against the Spanish in the western Mediterranean.⁴⁹⁶ By the end of the sixteenth century, Algiers had been transformed from an insignificant port town into a growing and diverse metropolis with as many as 100,000 inhabitants including Turks, Jews, and Christian slaves.⁴⁹⁷ Rich

⁴⁹³ 1729-1732 ‘Abdi Pasha was succeeded by Ibrahim b. Ramadan, 1732-1748.

⁴⁹⁴ Horn, *Diplomatic Service*, 240.

⁴⁹⁵ Charles Black, Port Mahon, to Newcastle, 30 September 1729, TNA SP 71/6 f. 601; George Logie to Newcastle, 24 September 1729, TNA SP 71/6 f. 583.

⁴⁹⁶ Abun-Nasr, *A History of the Maghrib*, 166.

⁴⁹⁷ European sources from the period estimate the population between 80,000 and inhabitants 150,000. For a detailed discussion of the demographic sources see Federico Cresti, “Quelques réflexions sur la population et structure sociale d’Alger à la période turque,” *Cahiers de Tunisie* 34, nos. 137-138 (1986): 161-164 and “Algiers in the Ottoman Period the City and its Population,” in Salma K. Jayyusi, Renata

Jewish families gradually became influential in the commerce and government of Algiers, and some became key players in British diplomacy. Non-Turkish Muslims were, however, the majority of the population and included local Arabs and Berbers, Christian renegades, and “Andalusians” who had been forced from the Iberian Peninsula.⁴⁹⁸

Over the course of the seventeenth century Algiers developed into a military oligarchy and increasingly broke loose from the authority of the Porte. Charles Julien argues that this freedom left the military rulers free to pursue piracy more aggressively, and provoked reprisals from European powers and conflicts with Tunis.⁴⁹⁹ In 1671 a British squadron destroyed much of the Algerian fleet, sparking a rebellion and the instillation of the *dey*—an officer elected by the military to rule the territory.⁵⁰⁰ By 1710, the Dey took on both the title and responsibilities of *pāshā* and became the nominal and real head of Algerian state.⁵⁰¹ The *dey*’s position as leader, however, was often precarious. Between 1671 and by 1818, fourteen of the thirty *deys* were installed by mob violence after their predecessor’s assassination.⁵⁰² Indeed ‘Abdi sha himself had been elected after the previous *dey* was assassinated in the street by a party of soldiers.⁵⁰³ Because of their tenuous political position, proper reverence from foreign powers could

Holod, Attilio Petruccioli, and Andre Raymond, *The City in the Islamic World, Vol. 1* (Leiden: Brill, 2008), 417; Abun-Nasr, *A History of the Maghrib*, 167.

⁴⁹⁸ Cresti, “Algiers in the Ottoman Period,” 490.

⁴⁹⁹ Charles André Julien, *History of North Africa: Tunisia, Algeria, Morocco, from the Arab Conquest to 1830* (London: Routledge & K. Paul, 1970), 302.

⁵⁰⁰ The rebellion led to the assignation of ‘Ali Agha (1664-71) who was the last of the four Janissary chiefs who ruled the country since 1659. All of them were assassinated. “Dey” is an anglicization of the Turkish *dāi*, meaning maternal uncle.

⁵⁰¹ Abun-Nasr, *A History of the Maghrib*, 175; Julien, *History of North Africa*, 302.

⁵⁰² Julien, *History of North Africa*, 321.

⁵⁰³ Playfair, *Scourge of Christendom*, 175-176.

be a crucial tool in an arsenal of political tactics designed to stabilize their rule.

Algerian *deys*, like Tunisian *beys*, Moroccan sultans, and other North African leaders, were famous for demanding gifts from diplomatic visitors. They also often cultivated direct and personal communication with the English monarchs—communication they expected to receive from the hands of a properly anointed diplomat. Algerian *deys* and Moroccan sultans often sent their own diplomats to London with letters for the King or Queen, rather than relying on the post. Queen Elizabeth and Mawlay Ahmad al-Mansur of Morocco set a precedent for active and bountiful communication in the sixteenth century. Queen Elizabeth, as Mawlay Isma‘il would describe it a century later, “had a great and firm friendship with my uncle the king Muley Hamet Dabby⁵⁰⁴ that they loved each other very much, sending letters of friendship with many presents one to the other, in such a manner that the people judged that they wanted to marry each other.” The emperor went on to compare that close diplomatic relationship, to what he saw as the current inadequacies of communication by post: “I Servant of God, cannot talk with you by post and letters, which come and go. If you want to send some person to my palace to talk and negotiate with me, as is the custom of kings, everything will be fulfilled with the favor of god on both sides, and peace and good health to you.”⁵⁰⁵

In the context of this intimate diplomacy, the Dey’s protest that a mere patent was insufficient makes sense. The internal consular politics of Algiers, however, was even

⁵⁰⁴ Mawlay Ahmad al-Mansur.

⁵⁰⁵ “Traslado de Carta del Senor Emperador de Marruecos del escrita al Almirante Cornwall en Luenga Arabiga,” “Mequinez 18 de Juman Segundo ano d 1129” [18 Jumada Al-Akhirah; 29 May 1717], TNA SP 71/16 f. 268; Rogers, *Anglo-Moroccan Relations*, 85.

more complicated. In the small and isolated merchant community of Algiers, proper demonstrations of respect were important for diplomatic relations, but could rarely overcome local politics or corruption. Although Holden was the favorite among the merchant community to replace Hudson as consul and a close confidant of the Dey, a Scottish merchant named George Logie, who had been serving in Algiers as consul to Sweden, was desperate to secure the British consulate for himself.⁵⁰⁶ In the wake of Black's expulsion from Algiers, reports from the local merchant community alleged that Logie had given expensive gifts to sway the Dey, advertised Black's scandalous business deals and dubious end as consul at Cadiz, and convinced the Dey to write to London, asking that Logie be made consul instead.⁵⁰⁷ Logie even offered Black the use of his own ship to retreat to Menorca to await instructions from London. As soon as Black left, Logie installed himself as interim consul, arguing that the Dey and *dīwān* had begged him to take up the post, there being "no other proper person here at present."⁵⁰⁸ Although Logie's schemes may have temporarily secured him the consulate, they made him few friends within the European community at Algiers. British chaplain Thomas Shaw labeled him an "ambitious mace," and reported that upon hearing that Logie had claimed

⁵⁰⁶ For more on George Logie's career as Swedish Consul to Algiers and Livorno, see Leos Müller, *Consuls, Corsairs, and Commerce: The Swedish Consular Service and Long-Distance Shipping, 1720-1815* (Stockholm: Uppsala University, 2004), 49, 59, 60, 82, 91, 116, 119-120, 124-128.

⁵⁰⁷ "Part of a letter from Mr. Shaw at Algiers to S. Hans Sloane Baronet," February 1729/30, TNA FO 113/3 f. 229. For Logie's response to the accusations see George Logie, March 1729/30, TNA FO 113/3 f. 238, and Logie to Secretary of State De le Fay, 19 May 1729, TNA SP 71/6 f. 575.

⁵⁰⁸ Charles Black, Port Mahon, to Newcastle, 30 September 1729, TNA SP 71/6 f. 601; George Logie to Newcastle, 24 September 1729, TNA SP 71/6 f. 583.

the post for himself, the French Consul, (a “gentlemen of a known Character”) exclaimed angrily, “*je chi—ay sur le pavillon anglais*”—I shit on the English flag!⁵⁰⁹

The ministry in London was unsure exactly how to proceed. The distance, slowness, and variability of communication, as well as the vastly different political cultures made the true facts of any squabble difficult to parse. Secretary of State Delafaye worried that “Black will have a bad time to be consul there, against the Dey’s inclination.” However, the slowly unfolding story of Logie’s scheme, aided perhaps by his increasingly defensive letters, made inaction impossible.⁵¹⁰ After several months, the ministry dispatched Admiral Cavendish to settle the problem. With only a sparse smattering of British administrators planted on solid land, the Navy had become an important diplomatic agent in the Mediterranean, and in many ways was the highest echelon of power in the region. Admirals invested with plenipotentiary power often served as the final authority in disputes and were the signatories of treaties, hopping between port cities to solve the diplomatic crises that might arise in the motley, cheek-by-jowl morass of the Mediterranean.⁵¹¹ To arbitrate the conflict between Black and the Dey, Admiral Cavendish was armed with gifts and a letter from the King. Unfortunately, Cavendish, like other British envoys before and after him, fell victim to his cultural

⁵⁰⁹ “Part of a letter from Mr. Shaw at Algiers to S. Hans Sloane Baronet,” February 1729/30, TNA FO 113/3 f. 229. For Shaw’s descriptions of North Africa, see Thomas Shaw, *Travels, Or Observations Relating to Several Parts of Barbary and the Levant*, (London: A. Millar and W. Sandby, 1757).

⁵¹⁰ See for example Secretary Charles Delafaye to Charles Wagerm, 6 November 1729, TNA FO 113/3 f. 226.

⁵¹¹ Jeremy Black and Philip Woodfine, *The British Navy and the Use of Naval Power in the Eighteenth Century* (Leicester: Leicester University Press, 1988), 10.

ignorance, refusing to remove his shoes (as Parker would do in Morocco more than 20 years later) before he entered the Dey's richly carpeted apartment.⁵¹²

British envoys like Black and Cavendish, who had little or no knowledge of North African politics, language, or culture, were at a distinct disadvantage compared to longtime residents like Logie. Logie's political machinations continued, and in 1737 he was accused of conspiring with the Dutch consul to have a competitor expelled from Algiers.⁵¹³ Like the Westcombes, he established his own consular dynasty. His son Charles was appointed consul at Tangier in the 1770s, where his knowledge of North African culture and politics made him indispensable to, if not always cooperative with British merchants.⁵¹⁴ In 1774 London merchant Allan Auld complained that despite receiving orders to do so, Charles Logie had not accompanied him to Salé where he was bringing a lawsuit against a French merchant. Auld contended that he himself was "totally unacquainted with the manners, customs, and mercantile language of the country," while his adversary was supported in his case by the French consul who was a "perfect master" of the language, culture, and "intrigue of Barbary." Without Logie's expertise, the case was decided in the French merchant's favor.⁵¹⁵ For Auld, Black, Cavendish, and other Britons unacquainted with North Africa, negotiations were difficult and sometimes futile. Although consular appointments would be made increasingly by

⁵¹² Playfair, *Scourge of Christendom*, 179.

⁵¹³ Richard Lawrence to Waldgrave, 2 May 1737, TNA SP 78/215 f. 139.

⁵¹⁴ *The Court and City Register Or Gentleman's Complete Annual Kalendar: For the Year 1776* (London: J. Jolliffe, J. Walter, 1776), 96.

⁵¹⁵ "Memorial to the Earl of Rochford from Allan Auld and William Ross, of London, merchants Joseph Redington, and Richard Arthur Roberts," *Calendar of Home Office Papers of the Reign of George III : 1760-1775* (London : Longman & Co., 1878), 182.

political patronage, Secretaries of States did attempt, intermittently, to place men with knowledge and experience of North Africa in consular posts. Long time residents like the Logies, however, might continue to take advantage of the ignorance of others for their own political or economic gain.

Despite Cavendish's gaffs and Logie's bribes, Dey 'Abdi Pasha finally agreed to accept Black as consul, in exchange for additional gifts sent from Britain. The truce would not last long however. Although Black managed to hold on to his position for several years, complaints continued from Algiers, including reports that Black was a drunk who could be capricious and violent.⁵¹⁶ Most importantly, Governor Kane complained that Black was not doing enough to secure grain for the garrison at Menorca, which was under threat of Spanish and French aggression.⁵¹⁷ Finally in 1738 Black was dismissed from his position.⁵¹⁸ The king appointed Edward Holder, "whose prudent Conduct during his long residence in your Dominions," the king wrote in his letter to the Dey "must, we are persuaded, render his Person very acceptable to you, and that you will look upon our Choice of him for this Employment as a mark of our sincere Desire to cultivate & improve the Peace and Amity which have so long subsisted between Our Dominions and your government."⁵¹⁹

Consular, or even naval diplomacy, could not, it seemed, develop an adequately fruitful relationship between Britain and North African States. Letters from North African

⁵¹⁶ "Testimony of Griffen Austin call master of the Wheel of Fortune," TNA SP 71/7 f. 717.

⁵¹⁷ Playfair, *The Scourge of Christendom*, 128.

⁵¹⁸ *London Evening Post*, 23-25 November 1738.

⁵¹⁹ "King George II to Ibrahim [ben Ramdan] Dey of the City and Kingdom of Algiers," 5 April 1739, BL Egerton MS 2528 ff. 87-89.

rulers throughout the eighteenth century are rife with cutting assessments of British envoys. Few were dispatched as dryly, or with such gleeful contempt, as those of Sidi Muhammad. Deep in yet another round of stagnant negotiations over provisioning Gibraltar, Sidi Muhammad wrote to Commodore Spry in 1768: “If the Consul was good for anything, he might have settled it; but, poor simple man that he is, he is fit for nothing but to amass the salary he receives from the King, and to serve his own family purposes.”⁵²⁰ If British envoys seemed destined to fail as often as they might succeed, Gibraltar and Menorca would need to find supplementary and alternate routes of diplomacy to sustain their garrisons. While Admirals and consuls would continue to tackle the problem of North African diplomacy, their failings would bring others to the table.

SUSTAINING THE COLONIES

The 1730s and 1740s were a perilous time for the future of the young British possessions in the Mediterranean. It was no time to pick fights with North African allies. Plague raged through the Maghreb, threatening the whole of the Mediterranean. Ships were under tight quarantine, and Oran was captured by Spain, limiting the supply of grain from the Barbary Coast. The War of Polish Succession pit Bourbon France and Spain against the Hapsburgs and Prussia, returning friendly Naples and Sicily to Spanish rule, and producing a treaty between Sardinia and France, despite Austrian (and British)

⁵²⁰ Commodore Spry to Weymouth, 28 November 1768, *Calendar of Home Office Papers of the Reign of George III: 1760-1775 ; Preserved in Her Majesty's Public Record Office* (London: Longman & Company and Triibner & Company, 1879), 387.

attempts to secure a treaty with the kingdom.⁵²¹ For the British, with the exception of the short-lived Spanish siege of Gibraltar in 1727, naval aggression died down to a quiet simmer after the War of Spanish Succession. The death of Louis XIV and the accession of a child to the French throne had rid Britain of a formidable foe. Further, in order to protect the ailing South Seas Company and British merchants in Spain, Robert Walpole took up a policy of naval restraint—a policy that persisted despite a growing opposition that favored more vigorous warfare.⁵²² Britain's new colonies were safe for the time being, but peace seemed fragile and their survival uncertain. By the end of the 1730s, the War of Austrian Succession would follow hard on the heels of the War of Jenkins' Ear, pitting Britain against old rivals France and Spain after 25 years of relative calm.

Despite the fact that Britain managed to steer clear of major warfare between 1714 and 1739, the shifting political landscape was cause for concern. The 1727 siege of Gibraltar was indicative of an atmosphere of Spanish aggression in the Mediterranean. After their losses in the War of Spanish Succession, Spain was determined to shift the balance of power back in their favor and win back lost territories. In 1732 the Spanish Navy blockaded Genoa, threatening to bombard the city if it did not pay a debt of two million pesos, and offer homage to the Spanish flag. When Genoa capitulated, Spain used this money to raise an expeditionary force to attack the Barbary Coast in an attempt to regain the strategic cities of Oran and Mers el-Kébir.⁵²³ The British watched Spanish

⁵²¹ Harrington, Hanover, to Newcastle, 30 June/11 July 1732, TNA SP 43/11 ff. 67-72.

⁵²² Shinsuke Satsuma, *Britain and Colonial Maritime War in the Early Eighteenth Century: Silver, Seapower and the Atlantic* (Woodbridge: Boydell & Brewer Ltd, 2013), 240.

⁵²³ Ring, Watson, and Schellinger, *Middle East and Africa*, 558.

preparations in dismay. “There is greater reason to believe,” Governor Kane wrote from Menorca, “that their real design was against Oran, Tetuan and Tangier and all in order to distress Gibraltar [,] for Spain does not think any Risque or any Expense would be too great for the obtaining of that place.”⁵²⁴ The ministry also heard rumors that the French were sending spies to examine Menorca’s fortifications in order to plan an attack in concert with Spanish forces.⁵²⁵

When the Spanish won back Oran in 1733, Governor Kane wrote to London, concerned about an impending attack on Menorca and his current scarcity of provisions. Spanish influence in Italy made obtaining provision from Naples or Sicily dubious, and the ministry began to contemplate how it would supply Gibraltar and Menorca with grain if Kane could not find an alternate plan. To make matters worse, France had recently made a treaty with Algiers that reduced Britain’s share of grain from that port. Due to continuing complaints from the Dey about Charles Black, Newcastle suggested that it would be in the ministry’s best interest to remove him, especially because Algiers’ recent alliance with France threatened Britain’s favored position.⁵²⁶ Worse still, the Dey threatened to cut off any grain exports to Menorca because he suspected that ships with British passes (probably obtained in Menorca) were re-exporting grain to Oran, thereby supporting the Spanish garrison with Algerian grain.⁵²⁷

⁵²⁴ Kane to Newcastle, 24 May 1732, TNA CO 174/16 ff. 13-14.

⁵²⁵ Draft of a letter to Governor Kane, March 1733/4, TNA CO 174/16 f. 17-18.

⁵²⁶ [Newcastle] to Harrington enclosing Lord Waldegrave’s letters, 4 August 1732, TNA SP 36/27/89 f. 256.

⁵²⁷ Black to Newcastle, 24 January 1732/3, TNA SP 71/7 f. 657.

Although a Franco-Spanish attack on Menorca and Gibraltar in the mid 1730s never materialized, by 1739, the situation of the British colonies in the Mediterranean was increasingly unstable, exacerbated by the first hostilities of the War of Jenkins' Ear. In January 1740, Consul Stanyford wrote to Newcastle of a plan to solve the problems of provisioning once and for all. The Turks made a failed attempt to regain Oran in 1733, but the Dey was still keen to seize control of the territory. The Dey and *dīwān*, Stanyford wrote, had suggested several times that if a British squadron would assist him in winning back the Spanish fortresses on the North African coast, "he would putt His Majesty in possession of the Town Cittadel harbour & Castle of Mazalquivir [Mers el-Kébir]," and give "His Majesty's subjects the privilege of the trade of that Coast Exclusive of all other nations." This, Stanyford added, "Considering the Great Sacristy of Corn & Provisison all over Europe att present & the great plenty they now & generally have might happen to be the best consequence...with regard to an Immediate Supply."⁵²⁸ When, in 1744, the protracted truce between France and Britain ended in naval warfare off the coast of Toulon, it was clear that without support from North Africa, the hub of British power in maritime Europe might crumble. As an 1895 article in the *Temple Bar* described it: "Port Mahon, about equidistant from Marseilles and Algiers, thus lay between the ports of an open enemy and an untrustworthy friend."⁵²⁹

⁵²⁸ Consul Stanyford, Mahon, to Newcastle, 30 December and 3 January 1740, TNA CO 174/16 f. 41.

⁵²⁹ "English Occupations of Menorca," *Temple Bar: A London Magazine for Town and Country Readers*, vol. 106, September to December (London: Ward and Lock, 1895), 469.

Grain From Barbary

By 1757, there were only two British merchants living in Algiers and by 1766 there was only one.⁵³⁰ The diplomatic failings of British consuls and the paucity of British merchants meant that the governors of Gibraltar and Menorca had to find alternative means of supplying the garrisons. Although Menorca had more natural resources than tiny, rocky Gibraltar, it was never able to fully supply its towns and garrison, except in years of exceptional harvest. Generally the island had to import considerable amounts of grain and cattle to feed both the civilian and military population.⁵³¹ In 1729, for example, Governor Kane wrote that provisions were “absolutely necessary for the security of Minorca” without which the island would be in a “perilous condition.”⁵³² In the spring of 1763, provisions for the garrison were so meager that there was not sufficient corn for eight days.⁵³³ Even a small rise in consumption could cause severe difficulties, as happened in 1771 when the arrival of Russian and Danish ships stretched the resources of the island dangerously thin.⁵³⁴

Even more than Menorca, Gibraltar was dependent on importing food from the outside world, and most of that food came from across the Strait. Safer and cheaper than bringing supplies from the British Isles, supplies from North Africa were more reliable

⁵³⁰ Consul Aspinwall reported that from 1757- 1759 the only two British traders in Algiers were an agent of the Jews, and an Irish Catholic. He reported that they bought spoils from corsairs which they sold in Lisbon, Spain and Leghorn. According to a 1766 report the majority of the trade from Algiers was carried out by Frenchmen and Jews, and there was only one British merchant. See Fisher, *Barbary Legend*, 298-301, and Hirschberg, *A History of the Jews*, 28, ; n.69; 72.

⁵³¹ Anderson, *Britain and Barbary*, 95.

⁵³² George Carpenter to Newcastle, 26 March 1729, TNA SP 36/10/2 f. 64.

⁵³³ Richard Lyttelton, Governor of Minorca to John Burrows, Secretary to Island of Minorca, 5 April 1764, quoted in Lyttelton to Halifax, 30 April 1764 TNA SP 44/328 ff. 37-39.

⁵³⁴ M.S. Anderson, “Great Britain and the Barbary States in the Eighteenth Century,” *Bulletin of the Institute of Historical Research* 29 (1956): 94-95. See Mostyn to Rochford, 14 May 1771, TNA 174/7 f. 62.

than the sporadic trade with Spain, and more convenient than Faro or Livorno. The garrison imported live cattle and grain as well as poultry, vegetables, and fruit from Morocco's northern coast.⁵³⁵ The possibility of the suspension of this trade made the British government wary of damaging relations with Morocco.⁵³⁶ This gave the Emperor and the *qā'ids* of the main ports a lever with which to put pressure upon Britain. If supplies from Morocco were cut off for any length of time, the garrison might suffer. And unfortunately, the supplies obtainable from Barbary, as an officer in 1707 reported, depended entirely on "the capricious humour of the Alcaide."⁵³⁷

Despite these moments of difficulty, and despite the many diplomatic stumbles of British envoys, Menorca and Gibraltar had indeed begun to develop a growing trade network with North Africa. From the early British occupation of Menorca, grain was imperative to the garrison. In 1712, Admiral Jennings was able to negotiate successfully with the Dey of Algiers, extracting his "kind promise to afford supply of provisions...for her Majesties' Forces in Garrison."⁵³⁸ Equally important to this quest, however, was the recognition of Menorcans and Gibraltarians as British subjects, which would afford them the protection of a Mediterranean pass. Soon after the Treaty of Utrecht, British authorities took steps to ensure that Menorcans and Gibraltarians would be recognized as British subjects—and as I have discussed in Chapter 2, they continued to make treaties

⁵³⁵ Leake, *Life of Sir John Leake*, 229; 234.

⁵³⁶For example, during Cornwall's blockade of Moroccan ports in 1718. See Meunier, *Le consulat anqlais*, 15. See also T.M. Benady, "The Jewish Community of Gibraltar," in R.D. Barnett and W.M. Schwab eds., *The Sephardi Heritage: Essays on the History and Colutral Contributionb of the Jews of Spain and Portugal-the Western Sephardim*. Grendon. Northants: Gibraltar Books, 1989.

Benady, "Jewish Community," 149-50.

⁵³⁷ R. Elliott to Sir Charles Hedges, 8 January 1707, TNA CO 91/4.

⁵³⁸ Admiral Jennings to the Dey of Algiers, June 1712, TNA SP 71/4 f. 389.

with an increasingly broad definition of British subjecthood. The ministry also often sent letters to consuls and rulers reiterating that they should “be look’d upon as natural Subjects,” and “enjoy all the benefits thereof as well as his majesties Subjects in his other dominions.”⁵³⁹

Merchants to the Colonies

After the British capture of Gibraltar and Menorca, the new colonies began to attract foreign merchants. The Menorcan merchant population was fairly small when the British took the island but grew as Menorcans increasingly took the opportunities to trade under British passes. By the start of the War of Jenkins’ Ear in 1739, there were thirty ships trading out of Mahón, most of them engaged in the import and re-export of grain from North Africa to the other Balearic Islands, Genoa, and Livorno.⁵⁴⁰ By 1778 the size of the Menorcan merchant fleet had risen to eighty ships, at least half of which were involved in the import or re-export of grain.⁵⁴¹ Among the merchant population was a high number of foreigners—particularly Jews and Greek Orthodox communities the British often hoped to attract in hopes of counter-balancing their recalcitrantly Catholic native population. In the early 1730s, a Greek merchant named Hage Manuell Sifando⁵⁴² was involved in importing corn from North Africa, and had developed a special trade

⁵³⁹ See, for example, Richard Lawrence, Consul at Tunis, to James Wishart, 28 February 1714/15 TNA SP 42/15 f. 203.

⁵⁴⁰ Donaldson, *Britain and Menorca*, 467

⁵⁴¹ “Estado Politico de Mahon,” 26 July 1782, Archivo Histórico de Mahón, (hereafter AM) Universidades, (hereafter U) 164/7.

⁵⁴² Probably Άγης (Agis) Manouel (Σιφάντος) Sifantos, The second name is a Christian name not common in Orthodox Christianity, so it is possible that he was a Catholic, although after the mid-eighteenth century they became more common.

relationship with the *qā'id* of Bona (Annaba)—a northeastern Algerian port city.⁵⁴³ By 1740 there were at least 200 Greek families living in Menorca,⁵⁴⁴ and by 1743, they even sought to establish their own church.⁵⁴⁵ In 1744, a group of Greek merchants petitioned to become British subjects,⁵⁴⁶ and were granted the “same privileges, liberties and immunities” as other subjects of the island—a step the government hoped would entice more Greek merchants to Menorca and increase its trade.⁵⁴⁷ By 1750 Greeks made up the majority of the 546 foreign civilians—most of whom resided in the new capital of Mahón, or in the garrison town of St. Philip’s.⁵⁴⁸

Although the number of Jews who had taken up permanent residence in Menorca in the first period of British rule is impossible to tally, there was a small Jewish community, and a lively trade with Jews at Algiers and Oran. As early as 1717, Moïse Parienti and Isaac Soliman, Jewish merchants at Algiers, were trading tobacco and other goods with the island.⁵⁴⁹ In 1720, Naphtali Busnach, a Livornese trader, moved to Mahon where he exported wool to Livorno, and probably imported wheat and other goods from

⁵⁴³ Kane to Newcastle, 24 May 1732, TNA CO 174/16 f. 13 “Small vessel from Bona a Port belonging to Algier between that place and Tunis arrived here with cattle for one Hage Manuell Sifando a Greek merchant of this Town who has often brought in Corn from that port and this merchant being well esteem’d by the governor of Bona.”

⁵⁴⁴ Francisco Hernández Sanz, “La Colonia Gregia Establecida En Mahón Durante La Siglo XVIII.” *Revista de Menorca : Ciencias, Artes Y Letras* 20, no. 11–12 (November 1925): 327–72, 339.

⁵⁴⁵ “Solicitud de los Griegos al Vicario Gener al de Menorca,” 9 December 1743, AM U/390.

⁵⁴⁶ Monson, Bladen, Plumer and Keene, to Carteret, 5 July 1744, TNA SP 174/2 f. 1.

⁵⁴⁷ William Scharpe, “Concesión de los mismos privilegios, libertades e inmunidades que gozan en Menorca los súbditos británicos, a los griegos establecidos en ella,” 28 November 1745, AM U/39?

⁵⁴⁸ “State of Natives and Inhabitants of Minorca exclusive of the Troops and other British Born Subjects,” 1750, TNA CO 174/2, f. 216.

⁵⁴⁹ Haddey, *Le Livre D'or*, 34.

Oran.⁵⁵⁰ In 1723 he moved to Algiers, and it is likely that he continued his trade links with Menorca. Hiam Hirschberg speculates that he may have in fact left a family member as agent at Mahon.⁵⁵¹ Although the Jewish population in Menorca was small and relatively transitory in the first period of British rule, a Jewish woman named Peceba Azuelos was born in Menorca in as early as 1738,⁵⁵² and when the French invaded Minorca in 1756, they captured fifteen Jews in Fort St. Philips, eleven of whom had taken up arms in the fight against the French.⁵⁵³ Only two years into the second period of British rule, the Jews of Menorca had begun to build a synagogue⁵⁵⁴ and by the time the Spanish took Gibraltar in 1781, there were more than 450 Jews living on the island.⁵⁵⁵

In Gibraltar, both Jews and Muslims came from Morocco, and the Rock's "free port" status also attracted a large number of Genoese, as well as Jews from Portugal, Livorno, and London.⁵⁵⁶ Jewish merchants from Tétouan were the largest group supplying the garrison in the early days of the colony, although their future on the rock was uncertain until the treaties with Morocco of 1721 and 1729 clarified their legal

⁵⁵⁰ Naphtali Busnach, 1720 exported bales of wool from Mahon to Habram Busnach at Leghorn in British ship Joan, see Sandra Fornitano Neri "Le Navi Inglesi a Livorno nella metà dell '700," Dissertation, University of Pisa (1979) 751-2; Benady, "Jews in the British Colonies," 53. Hirschberg, *History of the Jews*, 29.

⁵⁵¹ Hirschberg, *History of the Jews*, 29.

⁵⁵² See the 1791 census of the Gibraltar population, Gibraltar Government Archives (hereafter GGA), Box: Demography: List of Inhabitants, 1791. Other Jews born in Minorca before 1760 were Joseph Atal and Abraham de Jacob Alevy; Benady, "Jews in the British Colonies," 53.

⁵⁵³ Desmond Gregory, *Minorca, the Illusory Prize: History of the British Occupation of Minorca Between 1708 and 1802* (London: Associated University Presses, 1991), 172.

⁵⁵⁴ Richmond to Governor Johnson 13 June TNA CO 174/4, f. 37

⁵⁵⁵ "List of Jews expelled from Menorca," cited in Donaldson, *Menorca*, 255n162. See also "Relacion y Nomina de las Casas, Almacenes, y demas Propiedades que se hallan en el distrito de Mahon y su término, pertenecientes, á Ingleses, Griegos, y judios..." AM RG/11

⁵⁵⁶ Tito Benady, "The Jewish Community of Gibraltar," in *The Sephardi Heritage: Essays on the History and Cultural Contribution of the Jews of Spain and Portugal—the Western Sephardim*, eds. R.D. Barnett and W.M. Schwab (Grendon, Northants: Gibraltar Books, 1989), 146.

status.⁵⁵⁷ In 1712 Jews paid rents on more than a third of the properties in Gibraltar and in 1714 there were 100 Jews from North Africa and 50 from England, Holland, and Italy in the garrison.⁵⁵⁸ Joshua Hassan argues that Moroccan Jews conducted an entrepôt trade with their own country on behalf of European merchants and most importantly, controlled much of the trade in provisions for the garrison.⁵⁵⁹ By 1753, Jews accounted for almost a third of the population, and were particularly active in the supply and butchering of Barbary cattle.⁵⁶⁰ Although by 1777 nearly three-quarters of the Jews in Gibraltar were born in the town and therefore considered British subjects, many continued to maintain economic and social links across the Strait.⁵⁶¹

Jewish Merchant-Diplomats

For the British in the Mediterranean, Jewish merchants were important, not only for the trade networks they developed, but especially in the case of North Africa, for their trans-cultural knowledge—a hard-won skill born of centuries of expulsions and transplantations. This skill could be key in bridging the cultural and linguistic divide. However, in the case of later Jewish go-betweens, such as Jacob Benider, a Gibraltar-

⁵⁵⁷ Jean Louis Miège, M'hammad Benaboud, and Nadia Erzini, *Tétouan: Ville Andalouse Marocaine* (Paris: CNRS Editions, 1996), 51.

⁵⁵⁸ Joshua Hassan, *The Treaty of Utrecht 1713 and the Jews of Gibraltar : Lecture Delivered to The Jewish Historical Society of England in London 15 May 1963* (London: The Jewish Historical Society of England, 1970)

⁵⁵⁹ Hassan, *The Treaty of Utrecht*, 3.

⁵⁶⁰ "Cattle slaughtered in the Butchery 1750," GGA Miscellaneous 1749-50; Boyd to "Hadge Mohamet probe" [Muhammad al-Brubi, *amīn* of Tétouan] 19 November 1773, and Boyd to al-Brubi, 22 November 1773 and 10 December 1773, GGA Letters Tangier and Tetuan; Haim Bentov, "Toledano," in *Encyclopaedia Judaica* vol. 20, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., (Detroit: Macmillan Reference USA, 2007), 20: 19–21. Cattle consumed by the town increased from less than \$5,000 per year in the early 1750s to nearly \$20,000 by 1776. GGA Miscelaneous 1749-50, "A Calculation of the Profit of Cattle," n.d.; GGA Letters Tangier & Tetuan, 202.

⁵⁶¹ Brown, *Crossing the Strait*, 144.

born British subject and Ambassador to the Moroccan Emperor, the liminal identities and multiple allegiances that made them powerful diplomatic allies would, at times, reach beyond the scope of the British ministry's understanding of the expanding, yet increasingly codified bounds of British subjecthood.

North African leaders saw the benefits of making financial and political alliances with the Jewish community as well. The Busnach family, for example, who migrated to Algiers from Livorno in the 1720s, would become one of the most powerful merchant families in Algiers through the early nineteenth century. Naphtali Ben Moses the so-called "viceroys of Algiers," was an important intermediary between the Dey and European governments before being murdered by a Janissary in 1805.⁵⁶² For North African rulers, non-Muslim intermediaries could play an important role in upholding Islamic power and legitimacy. Daniel Schroeder argues that Sidi Muhammad conceptualized himself as a leader of both a state and a Caliphate—responsible for upholding shari'a law and conducting jihad, while at the same time engaging commercially with Christian powers. Using non-Muslims as intermediaries provided a

⁵⁶² David Corcos, "Busnach," *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed. vol. 4, (Detroit: Macmillan Reference USA, 2007) 316; Norman Stillman, "Busnach Family," *Encyclopedia of the Modern Middle East and North Africa*, ed. Philip Mattar, 2nd ed. vol. 1, (New York: Macmillan Reference USA, 2004,) 549-550; Morton Rosenstock, "The House of Bacri and Busnach: A Chapter from Algeria's Commercial History," *Jewish Social Studies* 14, no. 4 (October 1, 1952): 343-64. Hirschberg, *History of the Jews*, 29, 30-3, 35-6, 38, 40, 42, 44; J. M. Haddey, *Le Livre d'or des israelites algericets* (Algiers: A. Bouyer, 1871), 35; Eugène Plantet, *Correspondance des deys d'Alger: avec la cour de France, 1579-1833, vol. 2 1700-1833* (Paris: 1889), 131n1; 131n2: 9.

legal framework whereby a Muslim Caliphate could trade with Christian nations without compromising the “ideological underpinnings of the state”⁵⁶³

The Jews of Algiers

In the late seventeenth and throughout the eighteenth century, Jewish merchants from Livorno began to settle in the coastal cities of Algiers. Because they were from Europe, they generally fell under the authority of their European consuls, and were known as “free Jews.”⁵⁶⁴ In particular, the Bouchara, Busnach, and Bacri families gained increasing economic and political power, and cultivated connections with Livorno, France, Spain, Menorca, and Gibraltar.⁵⁶⁵ The Boucharas maintained an eighteenth-century dynasty as *muqaddam*, an Arabic title for civil or religious officials, literally meaning “expeditor,” or “assistant.”⁵⁶⁶ The position was headed by a Bouchara for most of the eighteenth century. The *muqaddam* managed the Jewish courts, oversaw tax collection and the Jewish schools, and, most lucratively, served as the commercial agent of the Dey.⁵⁶⁷

The Busnaches were also an influential family in Algiers. Naphtali Busnach left Mahon for Algiers in 1723, followed closely by Abraham Busnach who arrived in

⁵⁶³ Daniel J. Schroeter, *The Sultan's Jew: Morocco and the Sephardi World* (Stanford, CA: Stanford University Press, 2002), 11.

⁵⁶⁴ Morton Rosenstock, “The House of Bacri and Busnach: A Chapter from Algeria's Commercial History,” *Jewish Social Studies* 14, no. 4 (1952): 343–64.

⁵⁶⁵ C. Max Kortepeter, “Jew and Turk in Algiers in 1800,” in *The Jews of The Ottoman Empire*, ed. Avigdor Levy (Princeton, NJ: The Darwin Press, 1994), 333–4; Morton Rosenstock, “The House of Bacri and Busnach: A Chapter from Algeria's Commercial History,” *Jewish Social Studies* 14, no. 4 (1952): 343–64.

⁵⁶⁶ David Corcos, “Bouchara,” *Encyclopaedia Judaica*, ed. Michael Berenbaum and Fred Skolnik. 2nd ed. Vol. 4 (Detroit: Macmillan Reference USA, 2007), 104–105

⁵⁶⁷ Moshe Terdiman, “Jews of Algiers,” *Jewish Culture and History* 9, no. 2–3 (2007): 125.

Algiers in 1724. Although most of the Busnach family stayed in Algiers, Abraham's son David became an agent for the Bey of Tunis, 'Ali b. Husayn. He worked closely with the Bey and the Governor of Menorca in an attempt to grant a monopoly to the British on exports from Tunisia's northern coast.⁵⁶⁸ He also sent his son, Abraham Hay, to Mahon to develop the Menorcan branch of the family business. The Greek and Jewish communities in both Menorca and Algiers played an important role, not only as merchants and go-betweens, but also more generally as financial backers of the island's trade. Although they often boasted Menorcan captains, many of the ships involved in provisioning the island and garrison were owned by financiers who had family connections both in Menorca and North Africa. Abraham Hay developed close connections with a Menorcan Jew named Abraham Melo, as well as the powerful Greek-Menorcan Alexiano family. In a scheme to begin a business provisioning the garrisons, Hay, along with Theodore Alexiano, Demetrio Visare, a Greek and an official at the port of Algiers, and Jayme Vidal, a Menorcan captain, appear to have embarked on a project to import grain from Algiers.⁵⁶⁹ Consul Fraser, however, objected, writing to the ministry that he hoped "such Regulations will take place as to prevent Jews, the lowest, meanest

⁵⁶⁸ See TNA SP 71/29, f. 714 onward. The correspondence between the Bey, the governor of Minorca, and David Busnach indicates that in 1771 a proposal was made to grant the "Tabarka concession" to a British company, which would handle exports from the ports all along the coast from Jerba to Bona. According to a memorandum signed by Busnach, the exports were to be legumes and grain to Spain, Portugal, and Italy, as well as hides, wax, oil and soft soap. The Bey was to grant the company a monopoly on these goods. Wool and Tabarka corals were also to be exported. The right to fell trees was to be granted, and the supply of meat, bread, and wood to the fleet ensured and the Bey of Tabarka would permit a garrison. The plan, however, never came to fruition.

⁵⁶⁹ Johnston to Halifax, 17 February 1764, seeking approval for appointment of Theodore Alexiano. The appointment was confirmed and Alexiano's commission was dated 27 September 1765, TNA CO 389/57 f. 64.

and most abject of these subjects from being able to procure” Mediterranean passes.⁵⁷⁰ Ironically, Menorcans complained that Fraser had been thwarting trade with Algiers, by charging captains high prices at the port, forcing them to trade through his Jewish agent, as well as holding ships’ Mediterranean passes for ransom. The *Jurats* of Mahon drew up a long list of complaints from Menorcan captains claiming that Fraser “imposes them with various vexations, totally contrary to the Liberty of the trade.”⁵⁷¹ Governor Mostyn enclosed the complaints from the *Jurats* of Mahon, ending his letter, “I shall only add, that the Trade to Barbary is the Support & sole Dependence of this Island.”⁵⁷²

Morocco: Trouble in the Tanja

Trans-Mediterranean family ties were even more important in Gibraltar, where families that stretched across the Strait were the lifeblood of both trade and politics. From the beginning of Gibraltar-Morocco relations, Jewish intermediaries were central to political and economic diplomacy. Several Jews had key roles in drawing up the 1721 treaty between Britain and Morocco which was vital to promoting trade, provisioning the garrison, and for safeguarding British subjects from attack by Moroccan privateers. At first, the British sent Captain Norbury to negotiate a treaty with Mawlay Isma‘il. The negotiations, however, went badly, with the Emperor complaining that the envoy was “incapable of giving a good answer, and unable to discharge any trust, by reason of his little civility and great ignorance.”⁵⁷³ After his departure, Moroccan Jews Reuben b. Kiki

⁵⁷⁰ Fraser to Rochford, 1 May 1772, TNA SP 71/10 f. 747.

⁵⁷¹ Complaint by the Jurats of Mahon against consul Fraser, TNA 174/7 f. 172.

⁵⁷² Mostyn to Rochford, 9 June 1772, TNA CO 174/7 f. 170.

⁵⁷³ Moulay Isma‘il [Isma‘il b. Sharif] to King George I, 17 August 1721, TNA SP 71/16 ff. 621-622.

(Quiqui), and Moses b. ‘Atar, worked on the treaty for several years. In 1721, British envoy Charles Stewart, Ahmad Pasha b. ‘Ali b. ‘Abd Allah and “Treasurer of His Imperial Majesty,” Moses b. ‘Atar all signed the document, ratifying the treaty between the two states that would serve as the prototype for subsequent agreements.⁵⁷⁴ Ibn ‘Atar continued a relationship with both Stewart and Admiral Byng and helped redeem several hundred British captives.⁵⁷⁵

From the establishment of the English colony at Tangier, Moroccan and English politics and trade in the Mediterranean were intertwined. Sultan Mawlay Isma‘il, who had driven the English from Tangier in 1684, was able to expand his sovereignty to the modern borders of Morocco. Unlike previous dynasties, Mawlay Isma‘il and his Alawite dynasty did not have the support of any of local Berber leaders. Instead he enforced his dominion with an army of black slaves. The 1721 peace treaty had been an important step for British trade with Morocco, but upon Ismail’s death in 1727, the country was thrown once more into a state of instability. Between 1727 and 1757 struggles for power in Morocco—particularly between Mawlay ‘Abd Allah and his brother Mawlay al-Musta‘di—meant that control of the empire changed fifteen times in those thirty years.⁵⁷⁶ This instability gave greater power to the governors of northern port cities, freeing them to negotiate their own agreements to provision Gibraltar—the very thing that Sidi Muhammad would try to eradicate when he took power in the 1750s.

⁵⁷⁴ Hirschberg, *History of the Jews*, 270.

⁵⁷⁵ TNA SP 71/17, ff. 225-227; 196-197; Letter from “The servant of the Lord, Moses ben ‘Atar,” Tetuan, March 1722, TNA SP 71/16 ff. 617-618; Hirschberg, *History of the Jews*, 270.

⁵⁷⁶ Jamil M. Abun-Nasr, *A History of the Maghrib* (Cambridge: Cambridge University Press, 1975).

John Braithwaite, who was present in Gibraltar during the Spanish siege of 1727 and accompanied Consul Russell on a diplomatic expedition to Morocco during the outbreak of the wars between contenders for the crown, reported that the “divisions among the Moors were a great Advantage to our Garrison of Gibraltar, during the Siege, both Parties industriously courting our friendship.” From Mawlay Isma‘il’s death in 1727, merchants in Gibraltar, and indeed the governor himself, began to treat the governments of the port cities of the Tanja as autonomous entities. “If we are to trade only with the Loyal Subjects of Muley Abdallah,” a group of merchants and inhabitants of Gibraltar wrote in a 1754 Remonstrance to the Governor, “we must give over all commerce with his Country; for we dare venture to affirm that there is not a single sea port in his whole Dominions in real Subjection to him, and as it is from those ports we must have our supplies & merchandize...” In their representation, the merchants argued that although the 1750 treaty with Mawlay ‘Abd Alla was meant to “secure our Navigation from his Cruisers of the country & procure supplies for this garrison,” in reality Mawlay ‘Abd Alla only had authority over inland and southern Morocco. “If he has not authority enough to command his own Subjects,” they wrote “we must, for our own sakes, treat with those who hold the Reins of Government in the different Ports, without considering whether they are friends or Foes of the Emperor.”⁵⁷⁷

In the 1750s, the governor of Gibraltar himself entered into such negotiations with the Governor of Asilah, Mawlay al-Musta‘di —the Emperor’s brother and long-time

⁵⁷⁷ Remonstrance of British Merchants and other Inhabitants of Gibraltar to Governor Braddock, 26 February 1754, TNA CO 91/11 ff. 340- 341.

competitor for the throne. In August 1755, Governor Fowke wrote to Secretary of State Robinson that negotiations with al-Musta‘di to trade with Asilah had been beneficial to Gibraltar, because competition between these independent port cities had driven down the price for supplies down in Tangier and Tétouan as well. “It is a fortunate Circumstance on this occasion,” Fowke wrote, “that the Port of Asilah is open to us for the Exportation of all kinds of provisions; for had we not that Resource I am apprehensive that those of Tetuan & Tangier would, from an Opinion of our standing in need of Supplys from them, be very outrageous.” Fowke, who had been sending al-Musta‘di “several little Presents of such things as I could meet with that I thought would be agreeable to him,” asked the secretary of state for a “small Token of His Majesty’s Esteem” to be sent to the Prince “who has on all occasions shown so sincere a Regard & Respect for our Nation as merits some notice.”⁵⁷⁸

Despite the increased competition between Morocco’s Northern Ports, the *qā’ids* as well as the Emperor were well aware of the virtual monopoly they often had on provisions for the garrison. In the early 1750s, relative peace with Spain encouraged Gibraltar to attempt to circumvent high prices and political problems and famine in Morocco by purchasing provisions from Spain. Governor Bland proposed that the Ambassador to Spain, Benjamin Keene, should try to negotiate a deal whereby the garrison at Gibraltar “might be supplied with live Cattle and other Fresh Provisions.”⁵⁷⁹ At the time, North Africa was in a major drought, and Bland was also in negotiations

⁵⁷⁸ Governor Fowke to Thomas Robinson, 15 August 1755, TNA CO 91/11 f. 407.

⁵⁷⁹ Bland to Richardson, 6 April 1750, TNA CO 91/11 f. 16.

with the Governor of Tangier to supply the port with English grain in return for Moroccan cattle.⁵⁸⁰ Again, after Sidi Muhammad's threats in 1755, to cut off all provisions from Moroccan ports, Governor Fowke wrote to Keene "begging the favour of him to use his Interest at the court of Madrid for procuring an order" of provisions to "prevent any Distrust or Uneasiness that may happen in this Garrison for want of the usual Supplies of fresh Provisions from Barbary."⁵⁸¹ Provisions in any great quantity from Spain, however, were seldom forthcoming. In the midst of this political unrest, Jewish merchants played an important role in mediating between the British and the *qā'ids* of Tétouan and Tangiers. They helped supply food to the troops in the fortress of Gibraltar, and granted loans and credit for the redemption of British captives. Abraham Benider, for example, a native of Tétouan, had learned English "to great perfection" as a resident of Gibraltar, and served as an interpreter for the Moroccan Ambassador in London as well as for the British fleet.⁵⁸² He was also "very serviceable...in procuring provisions both for the Fleet and Garrison."⁵⁸³

With the maturation of the Jewish community at Gibraltar, increasing numbers of Moroccan Jews were becoming natural-born British Subjects, and were progressively well-versed in the English language and in British diplomatic culture. Invaluable as go-betweens, many were appointed as vice consuls and interpreters. Jacob, Abraham Benider's Gibraltar-born son, was appointed British vice consul at Tangier in the 1760s,

⁵⁸⁰ Bland to Richardson, 6 April 1750, TNA CO 91/11 f. 17.

⁵⁸¹ Fowke to Robinson, 12 September 1755, TNA CO 91/11 ff. 430-431.

⁵⁸² John Braithwaite, *The History of the Revolutions in the Empire of Morocco* (London: James and John Knapton, Arthur Bettesworth, 1729), 307, 319, 327-328

⁵⁸³ Braithwaite, *The History of the Revolutions*, 307-308

and later Salé.⁵⁸⁴ When the new Consul-General, Charles Logie, removed him from office in 1772, Sidi Muhammad recognized Benider's diplomatic potential and sent him to London as a Moroccan Ambassador. In his letter of introduction, Sidi Muhammad wrote of him: "he loves you and serves you ... because he is our servant and yours."⁵⁸⁵ Despite the importance of go-betweens like Benider in fostering diplomacy with North Africa, the fact of Benider's status as a British subject made him unacceptable as an envoy for Morocco; while Sidi Muhammad saw Benider's background as an excellent opportunity for mutual understanding, the ministry saw it as an intolerable case of divided loyalties.⁵⁸⁶ Liminal identities were crucial to diplomatic workings in the Mediterranean region, but in London, the idea of a British subject acting as a foreign ambassador who might simultaneously represent Moroccan, Gibraltarian, and larger British interests was beyond the scope of the ministry's imagination.

CONCLUSIONS

Some have envisioned the eighteenth century as a period of European imperial expansion and North African decline. This dynamic does not take into account, however, the fact that British power in the Mediterranean was built upon strong diplomatic relations with North Africa. North African states were essential to British survival as a

⁵⁸⁴ Shelburne to Commodore Spry, 20 March 1767, TNA SP 42/136 f. 142.

⁵⁸⁵ Letter from Sīdī Mohammed, TNA FO 52/3, f. 8.

⁵⁸⁶ For Benider in London, see TNA SP 71/21. ff. 59-122. See also Benider to Rochford, 7 August 1772, TNA SP 71-21 f. 3-4; Benider to the Earl of Rochford, 14 December 1773, TNA SP 37/10 f. 158; Miscellaneous Warrants and Letters from the Offices of the Secretaries of State: Lords of the Treasury, 2 September 1772, TNA SP 44/328 f. 299; Treasury Letters: Jacob Benider £150 for contingencies at Mogador, 13 October 1773, TNA SP 44/328 f. 319; Treasury Letters: Jacob Benider minister from Emperor of Morocco, 7 September 1772, TNA SP 44/328 f. 301. See also Cecil Roth, "Jacob Benider: Moroccan Envoy at the Court of St. James' (1772)," *Miscellanies (Jewish Historical Society of England)* 2 (1935): 84-90' and Hirschberg, *History of the Jews*, 285-288.

colonial power in the Mediterranean. However, cultural, linguistic, and geographic distance, as well as deeply ingrained cultural chauvinism had long created diplomatic difficulties between England and North Africa. In the eighteenth century, the system of political patronage that began to replace knowledgeable merchant-consuls with inexperienced and often incompetent officials only compounded these difficulties. Thus the consular system that developed in the eighteenth century often proved inadequate in fostering the trade that was so essential to maintain Britain's Mediterranean garrisons.

Despite this, the political and geographic realities of the British possessions in the Mediterranean meant that North African rulers such as Sidi Muhammad could not be dealt with through military might or aggression. In January 1756, before Moroccan Ambassador Benzacour arrived in London with his letter to King George, and before Hyde Parker's disastrous diplomatic mission to Morocco, a group of merchants sent nervous letters to the ministry, with suggestions for the upcoming diplomatic mission to Morocco. They warned that whoever would be sent to redeem hostages and draw up a treaty should bear a letter from the King, be "Invested with full power" and "proper credentials," and be accompanied by "some person who has some knowledge of the customs of that country" who was also "conversant in the Language."⁵⁸⁷

While the British rarely found British envoys who were knowledgeable about North African customs, or "conversant in the Language," they did begin to develop relationships with local intermediaries who could help smooth the rough edges of Anglo-Maghrebi diplomacy. While British envoys with "little civility and great ignorance," such

⁵⁸⁷ Proposal from Morocco Merchants to Fox, 15 January 1756, TNA SP 71/20 f. 1.

as Norbury and Parker often gave offence in North Africa, merchant diplomats such as Moses b. 'Atar and Benider were able to navigate the cultural divide more easily.⁵⁸⁸ North African Jews in particular, were valuable go-betweens for British diplomacy. Jewish merchants often had close connections with North African leaders, for whom they helped develop trade connections with European states. As the Jewish population in Gibraltar grew, mercantile and family networks developed across the straits and would prove essential not only to trade, but to diplomacy as well. Contrary to any notion of any all-encompassing British imperial hegemony, British power in the Mediterranean depended on deferential diplomacy with North Africa. And just as the British manned the ships that would provision their garrisons with diverse Mediterranean people, diplomacy itself was increasingly conducted by local intercessors, who might effectively help Britain court the Maghreb.

Chapter 4. A Sea of Wax and Ink

WAITING FOR THE MAIL

In the summer of 1778 the battle raging between England and her rebellious American colonies had turned into a global struggle. Britain had recently declared war on France, French privateers were busy capturing British merchant vessels throughout the Mediterranean, and on the island of Menorca, Governor Murray waited impatiently for the mail. French privateers had already captured five or six Menorcan ships and crucially, had detained the packet boat carrying letters from London. The war had also crippled the island's trade and put 800 Menorcan merchant seamen out of work.⁵⁸⁹ The *Jurats* sent remonstrances to Governor Murray, requesting that he commission Menorcan privateers, who might give the island's seamen some employment. With no trade and no licenses to plunder enemy vessels, Menorcan mariners had begun seeking work on French ships.⁵⁹⁰ Without instructions from London, however, Murray was hesitant to take action. He had received word from Secretary of State Lord Weymouth in July that the Crown had decided to commission privateers, but licensing Menorcans to act as British privateers would require official letters of marque from London—documents that were, Governor Murray assumed, aboard Menorca's mail ship, the *Earl of Bessborough* packet, which was trapped in Livorno by the French blockade.

Murray was in a quandary. Communication was key to maintaining the chain of command in the British Mediterranean, and he was anxious not to overstep his authority.

⁵⁸⁹ Jurats of Mahon to James Murray, The National Archives (hereafter TNA) Colonial Office (hereafter CO) 174/11 f. 116.

⁵⁹⁰ "Information taken concerning sums paid by Mr. Leautier for several Menorqueens engaged in French Vessels," TNA CO 174/11 ff. 126-129.

The blockade had not only damaged British trade, it had also amputated the hierarchy at the heart of imperial war-making: direct orders from London. Murray, left alone on an island of angry *Jurats* and traitorous sailors, wrote copious letters to the Secretary of State begging for direction. He wrote to the Governor of Gibraltar, the Admiral of the Mediterranean fleet, and the consul at Barcelona asking for advice. He even employed an armored row boat to sail to Livorno to retrieve the mail—all in vain.⁵⁹¹ After agonizing for three months he decided to issue his own privateering commissions to Menorcan ships.⁵⁹² In his nervous letter to Secretary of State Weymouth he wrote, “if the mode is defective, the idea is at least pious, and therefore if I err’d I rely upon the King’s Forgiveness.”⁵⁹³ At first glance, Murray’s hesitation seems puzzling. Why did he delay so long if he knew that the Crown had issued commissions two months before? Why delay if it was clear that the letters of marque were lost, indefinitely detained, or quite possibly at the bottom of the sea? The answer is as simple as it is surprising, but it is vital to understanding British imperial power in the Mediterranean. The Mediterranean was a world in which the difference between privateering and piracy, the boundary between safe passage and slavery, the line between British subject and alien enemy were all drawn quite literally in ink and wax on parchment and paper.

⁵⁹¹ Murray to Admiral Duff, 17 August 1778, TNA CO 174/11 f. 114; Commission by Murray to John Caymaris, Master of the Tartar, 14 September 1778, TNA CO 174/11 f. 146.

⁵⁹² “Commission issued in consequence of Remonstrance of the Jurats of Mahon,” 3 October 1778, TNA CO 174/11 ff. 152-153; Murray, Proclamation, 9 October 1778, Archivo Histórico de Ciutadella (hereafter AC) Ordenes Real y Disposiciones de Otras Autoridades, (hereafter ROD) Libro Segundo, 21 April 1760-11 August 1781.

⁵⁹³ Murray to Lord Weymouth, 7 October 1778, TNA CO 174/11 ff. 143-144.

“The state,” Kenneth Banks writes of the French Empire, “could only be as strong as its most recent dispatches.”⁵⁹⁴ But it was not just dispatches and the information that they contained that was the source of British strength in the Mediterranean. In a region with few “natural born” Britons and where the Crown controlled meager territory, parchment itself extended British sovereignty into the sea—protecting British trade and combating Britain’s enemies. In the case of Murray’s missing letters of marque, the form of these documents themselves was vital to their validity—expressing British power through signatures and seals—a formal and authenticated expression of sovereignty for which Murray’s own decrees could be no substitute. By their very nature, these documents transferred the power to make war from the state to its subjects, establishing the bearers as subjects of the British Crown who were commissioned to fight on its behalf. Parchment, ink, wax, and the power they carried were key to British authority in the Mediterranean. These documents were not simply the record of the communications of rulers and subjects—they were a technology of empire. As Miles Ogborn puts it: “Writing was not simply a commentary upon what happened, it was very much part of the action.”⁵⁹⁵

The circulation of such documents was facilitated by the development of British bureaucracy. By the eighteenth century, the overseas mail services connected Britain to Europe, the colonies, and increasingly the world; the Admiralty and Board of Trade kept

⁵⁹⁴ Kenneth J. Banks, *Chasing Empire across the Sea: Communications and the State in the French Atlantic 1713-1763* (Montreal: McGill-Queen’s University Press, 2006), 64.

⁵⁹⁵ Miles Ogborn, *Indian Ink: Script and Print in the Making of the English East India Company* (Chicago: University of Chicago Press, 2007), 26.

constant communication with their representatives abroad; the Privy Council read memorials and remonstrances sent from the colonies and mailed back to them its decrees. Charged with the management of a growing empire, the British government relied on an increasingly professional administration and on the development of what Konstantin Dierks calls “documentary culture”—an explosion in “letter writing, record keeping, and printing that enabled an unparalleled interconnection of city to nation, nation to empire, and empire to world.”⁵⁹⁶ Through these technologies of empire, the British could manage and connect vast territories and populations. John Brewer has famously marked the period between 1649-1714 as the rise of the “fiscal military state.” According to Brewer, England’s rise to global dominance was achieved through a new level of organization and financial administration.⁵⁹⁷ As Christopher Storrs points out, the number of full-time employees in this “fiscal bureaucracy” rose from 2,524 in 1690 to 8,292 in 1783.⁵⁹⁸

This burgeoning bureaucracy necessitated and created ever-expanding reams of paperwork for administrative bodies such as the Board of Trade, Admiralty, Treasury and a host of other government departments that managed the expanding empire. Even a glance at the Navy Board correspondence reveals the astounding proliferation of paperwork over the course of the eighteenth century. A volume from the 1770s bulges at

⁵⁹⁶ Konstantin Dierks, *In My Power: Letter Writing and Communications in Early America* (Philadelphia: University of Pennsylvania Press, 2011), 12.

⁵⁹⁷ John Brewer, *The Sinews of Power: War, Money and the English State, 1688-1783* (Cambridge MA: Harvard University Press, 1990), x.

⁵⁹⁸ Christopher Storrs, *The Fiscal-Military State in Eighteenth-Century Europe: Essays in Honour of P.G.M. Dickson* (Farnham: Ashgate Publishing, 2009), 4.

twice the size of one from the 1720s, and covers a shorter period of time. Bureaucracy, empire, and paper went hand in hand.⁵⁹⁹

Some historians and sociologists have also associated this growing bureaucracy and the paperwork it produced with a transition from a “traditional” to a “modern” state. According to Max Weber, modern governments are founded on what he calls “the files”—documents that are the “material implements” of bureaucracy.⁶⁰⁰ This documentation is also essential to Michel Foucault’s concept of “biopower”—the surveillance and regulation of subjects.⁶⁰¹ By creating and maintaining these files, the state gained access to information about the histories and identities of its subjects—information it could use to regulate and surveil the population. The modern state, according to theorists like Anthony Giddens and John Torpey, carries out its surveillance through administration and documents such as identification papers.⁶⁰² As Edward Higgs emphasizes, however, there were more beneficial aspects to the new forms of documentary identification. Written documentation of identification not only “measured and manipulated” subjects in the interest of the state, but was also the underpinning of the rights of those subjects—and was a written guarantee of those rights.⁶⁰³

⁵⁹⁹ Clive Wilkinson, *The British Navy and the State in the Eighteenth Century* (Rochester NY: Boydell Press, 2004), 99. See for example National Maritime Museum (hereafter NMM) ADM/B.

⁶⁰⁰ Max Weber, *Economy and Society; an Outline of Interpretive Sociology Vol. 3* (New York: Bedminster Press, 1968), 957.

⁶⁰¹ Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977-78* (New York: Palgrave Macmillan, 2007).

⁶⁰² John Torpey, “Coming and Going: On the State Monopolization of the Legitimate ‘Means of Movement,’” *Sociological Theory* 16, no. 3 (1998): 247; Anthony Giddens, *A Contemporary Critique of Historical Materialism Vol. 2, The Nation-State and Violence: Contemporary Critique of Historical Materialism* (Berkeley: University of California Press, 1987), 47; 45.

⁶⁰³ Edward Higgs, *Identifying the English: A History of Personal Identification 1500 to the Present* (London: Continuum International Publishing, 2011), 7.

Historians of Modern Europe have associated technologies of identification with the industrial revolution and the nineteenth century, when workers flocked to the cities from the countryside, breaking the networks of personal relationships that characterized rural life.⁶⁰⁴ Moving from villages in which they and their families had spent their whole lives, this newly anonymous urban populace would require proof of who they were and whether they could be trusted.⁶⁰⁵ But anonymity was not unique to the industrial city. The sailors, travellers and merchants who traversed the early modern globe were similarly removed from the local networks of thick and longstanding personal relationships that characterized rural life. Paper and parchment, ink and wax, served not only to identify or protect the bearer, but also to extend the power of the sovereign into an international space. Although personal passports would not fully develop until the French Revolution, their predecessors can be seen in ships' papers, passes of safe conduct, letters of introduction, Mediterranean passes, and letters of marque.⁶⁰⁶

This chapter argues that paper, parchment, ink, and wax were not only ways to convey information, but were technologies of empire-building in their own right. Their circulation into, out of, and throughout the Mediterranean created the British Mediterranean world. It was not only letters and dispatches that organized and

⁶⁰⁴ Simon A. Cole, *Suspect Identities a History of Fingerprinting and Criminal Identification* (Cambridge, MA: Harvard University Press, 2001), 8.

⁶⁰⁵ Cole, *Suspect Identities*, 8; Chandak Sengoopta, *Imprint of the Raj: How Fingerprinting Was Born in Colonial India* (London: Macmillan, 2003), 9.

⁶⁰⁶ John Torpey, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge; New York: Cambridge University Press, 2000); Gerard Noiriel "The Identification of the Citizen: The Birth of Republican Civil Status in France" in Jane Caplan and John Torpey, *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton, N.J: Princeton University Press, 2001).

disseminated British power throughout the Mediterranean. In a community in which peoples of diverse origins increasingly claimed British subjecthood, and in which British territorial claims were negligible, documents were both a vital tool for administrative communication and a tangible instrument through which British power and protection flowed. Mediterranean passes, letters of marque, and ships' papers extended the powers of the sovereign into an international space, defining who could and could not partake in the rights and protections of British subjecthood. The movement toward documents, rather than national origin, culture, or language as the marker of subjecthood would allow a wider range of people to claim rights and protections as British subjects, both legally (as inhabitants of the colonies of Gibraltar or Menorca) and illegally (by obtaining a documents through forgery, trickery, or luck).

Paper Empire: Letters of Rule and Trade

"Statesmen and ambassadors," writes Fernand Braudel, "whom we usually imagine with weighty matters on their minds, are often preoccupied by the arrival or delays of the mail."⁶⁰⁷ In December 1776, the recently appointed British consul to Genoa, John Collet, wrote to William Dean Poyntz, British chargé d'affaires in Turin, to introduce himself and to assure Poyntz that he would honor Lord Weymouth's orders to keep a regular correspondence. Collet wrote that he would "not fail" to send Poyntz any intelligence that came his way.⁶⁰⁸ Like Braudel's frustrated correspondents, Collet's

⁶⁰⁷ Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II* (New York: Harper & Row, 1976), 356.

⁶⁰⁸ John Collet to William Dean Poyntz, Turin, 14 December 1776, Huntington Library, (hereafter HL) John Collet Collection, Huntington Manuscripts (hereafter HM) 45766.

letters are full of complaints about delays in the mail. In his letter to Poyntz, Collet grumbled that because the Spanish courier fell ill on the road, he had received news only the day before that a British frigate had captured an American ship off Cape Finisterre several weeks before.⁶⁰⁹ Attacks on mail ships, wartime blockades, or the illness, robbery, or capture of couriers meant that the vital circulation of information could be slow and complicated. Consuls, merchants, and governors often relied on each other for news.

By 1776 news had become increasingly important in British life, both at home and abroad. Eighteenth-century Britain was in the midst of a full-fledged communication revolution.⁶¹⁰ Newspapers brought reports daily from around the growing empire and the world, and the postal system allowed people to connect to friends, family, and business partners with a rapidity never seen before.⁶¹¹ The early modern explosion in letter writing and record keeping was aided by a tremendous rise in literacy rates. Although England had “long been a society with both significant literate and illiterate elements,” from about the sixteenth century literacy was no longer confined to the gentry, nobility, clergy, or even the middling sort.⁶¹² The proliferation of literature written in the vernacular “made the whole population potentially members of the literate culture.”⁶¹³ The growing complexity of trade and the importance of bills, contracts, and other legal and mercantile

⁶⁰⁹ Collet to Poyntz, 14 December 1776, HL HM 45766.

⁶¹⁰ Eve Tavor Bannet, *Empire of Letters: Letter Manuals and Transatlantic Correspondence, 1680-1820* (Cambridge: Cambridge University Press, 2005), 10.

⁶¹¹ The London penny post delivered only within the city, but penny post messengers would give any letters directed farther afield to the General Post Office. See Joseph Clarence Hemmeon, *The History of the British Post Office* (Cambridge MA: Harvard University Press, 1912), 29-30.

⁶¹² R. A. Houston, *Literacy in Early Modern Europe: Its Growth, Uses and Impact, 1500-1800* (New York: Routledge, 2002), 151.

⁶¹³ R.S. Schofield, “The Measurement of Literacy in Pre-Industrial England” in *Literacy in Traditional Societies* (Cambridge: Cambridge University Press, 1975). See also, Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London; New York: Verso, 2006).

documents made reading an increasingly valuable skill. Also, from the sixteenth century, more and more children bound for skilled and semi-skilled work entered grammar, petty, dame, parish, or subscription schools, where students were taught basic literacy and numeracy, if not necessarily complete literary competence.⁶¹⁴ Northwest Europe in particular, underwent a major shift after the fifteenth century, when ninety five per cent of men and all but a few women were illiterate. By 1800, more than half of adult males could sign their names, and even more could probably read a simple text.⁶¹⁵

Britons in the Mediterranean were even more likely to be literate given that most were government officials, merchants, or sailors. Although literacy was not essential for common sailors, it was a crucial skill for any ambitious man who wanted to move up the ranks.⁶¹⁶ A boatswain, for example, had to be able to check manifests, read bills of lading, and write receipts for merchants' goods. Robert Alwyn, boatswain of the merchant vessel *Elizabeth*, was dismissed in Genoa because he "wrote very indifferently, very slowly, could not spell English."⁶¹⁷ Mates were required to keep logbooks, and needed numeracy to calculate the ships' latitude and the day's distance and course.⁶¹⁸ Marcus Rediker has calculated that between 1700 and 1750, ninety five per-cent of skilled

⁶¹⁴ Schofield, "The Measurement of Literacy." For sailors and contracts see Peter Earle, *Sailors: English Merchant Seamen 1650-1775* (York: Methuen, 1998), 30; 169.

⁶¹⁵ Houston, *Literacy in Early Modern Europe*, 15. Houston argues that because people were taught to read before they could write, being able to sign one's name is a fair gauge of literacy. While scholars continue to debate this method of calculating literacy rates, and Houston's estimates excludes the very poorest sectors of society who were often never in a position to mark any official document, it seems clear from the available sources that literacy was on a rapid rise.

⁶¹⁶ Earle, *Sailors*, 20-21.

⁶¹⁷ Deposition of Samuel Gunston, 12 December 1704, TNA High Court Admiralty (hereafter HCA) 13/83 f. 211; Earle, *Sailors*, 20-21.

⁶¹⁸ Earle, *Sailors*, 21.

crew and officers were literate enough to sign their name when called before the Admiralty court. Literacy among common seamen and unskilled workers, however, was much less common, but still at about 70 per-cent.⁶¹⁹ Of course, the levels of literacy could range drastically between small fishing boats and Royal Navy ships. While some logbooks only contained the most rudimentary calculations needed for navigation, Royal Navy Lieutenant Phillip Carteret scribbled stanzas of Milton and salacious lines from Pope in the cover of the logbook of the *Guernsey* while cruising the Mediterranean.⁶²⁰

Eighteenth-century readers and writers were aided by another crucial technology of empire: the development of the British postal system. Overseas mail not only maintained the chain of command in far-off places, it facilitated coordination between manufacturers, wholesalers, merchants, and retailers, enabling the expansion of global trade.⁶²¹ The Post Office packet service—mail ships and boats named for the packets of letters they carried—was as instrumental to this communication between Britain and her officials overseas or in her colonies and to the business of trade.

⁶¹⁹ See Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750* (Cambridge: Cambridge University Press, 1987), Appendix D “Literacy in the Merchant Shipping Industry 1700-1750,” 307.

⁶²⁰ Logbook of the *Guernsey*, Captain M. Milbanke in the Mediterranean 1757-58, NMM Carteret Family Papers 1A. Carteret wrote lines from Alexander Pope, Pope to Cromwell, June 24, 1710, *An Essay on Man epistle III*; Joseph Addison, *Extract from The Letter from Italy: The Blessings of Liberty*; John Milton *Paradise Lost, Book II*, 487-505. Carteret would rise in the ranks, and later go on to circumnavigate the world and as captain of the *Dolphin*. In 1766 he discovered a group of islands in the South Pacific, including Pitcairn Island. See Philip Carteret, *Carteret’s Voyage Round the World, 1766-1769*, ed. Helen Wallis, Hakluyt Society, 2nd ser., no. 124-125 (Cambridge: Cambridge University Press, 1965).

⁶²¹ Bannet, *Empire of Letters*, 10; Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society* (Cambridge MA: The MIT Press, 1991), 15-16.

British overseas mail service began in the sixteenth century and carried royal and government correspondence.⁶²² Prior to the seventeenth century, business correspondence and private letters were sent as “ships’ letters” aboard merchant vessels.⁶²³ By the early seventeenth century, the British government began to take charge of the circulation of personal and merchant letters, developing the postal service into a for-profit scheme. Ships’ letters carried aboard merchant vessels became integrated into the postal service: merchant vessels were to give ships’ letters to the post-master at their port of arrival in England and from there the letters would be forwarded to London for distribution via the Royal post.⁶²⁴

The Postal Act of 1711 consolidated the English, Irish, Scottish, and colonial mail services, centralized the administration, and treated the circulation of mail domestically and overseas as a single system catering to the empire as a whole.⁶²⁵ The Postmaster General appointed agents in various foreign and colonial ports. He also made treaties with foreign postmasters to set routes and prices for British mail traveling overland through foreign countries. A 1783 treaty between the “Post Master General of Great Britain” and the “Intendant General of the Posts of France” specified that English mail traveling to or through France should be sent twice weekly from Falmouth to arrive by packet ship at Calais. From Calais, the French post office would bring it to Paris for

⁶²² Hemmeon, *Post Office*, 7.

⁶²³ George F. Kay, *Royal Mail; the Story of the Posts in England from the Time of Edward IVth to the Present Day* (London: Rockliff, 1951), 93.

⁶²⁴ Howard Robinson, *Carrying British Mails Overseas* (London: G. Allen & Unwin, 1964), 40; Hemmeon, *Post Office*, 124; Kay, *Royal Mail*, 98.

⁶²⁵ Dierks, *In My Power*, 43.

distribution via the regular French post.⁶²⁶ The many “ruptures” caused by eighteenth-century imperial wars, however, often interrupted these treaties and agreements.⁶²⁷

By the early eighteenth century the post office had well-established routes to the Mediterranean. Overland routes began from Atlantic port cities like Corunna, Calais, and Lisbon. A packet ship also ran between Menorca and either Marseilles, Livorno or Genoa—depending on the current diplomatic situation.⁶²⁸ Problems of communication were endemic to the Mediterranean colonies in times of war. Menorca, so close to France and Spain, was liable to blockade and attack. Although not technically an island, Gibraltar was cut off from the mainland under the Treaty of Utrecht. During wars with Spain, it might be under constant bombardment across the border and blockaded by ships in the straits. Both colonies were strategic strongholds, and governors (who were also commanders of the garrisons) needed orders. Admirals too, often depended on packet service to communicate with London. In wartime, packet boats supplied Gibraltar by way of Lisbon (instead of overland through Corunna or other Spanish ports), making Gibraltar an important hub of communication with the Mediterranean Fleet.⁶²⁹

⁶²⁶ “Articles and Agreement between Charles Earl of Tankerville and Henry Frederick Carteret, Post Master General of Great Britain and Mons. Le Baron D’Ogny Intendant General of the Posts of France, 4 August 1784, Treasury Letter Books 1783-1786,” Royal Mail Archive (hereafter RMA) POST 1/12 ff. 212-222.

⁶²⁷ Robert Hampden to Lords Commissioners of the Treasury, 21 April 1762, Receiver General’s Entry Book 1755-1778, RMA POST 103/5 ff. 96-97.

⁶²⁸ See Receiver General’s Entry Book 1778-1791, RMA POST 103/6 f. 31 and “Articles of Agreement” between James Craggs and Henry Neale, 16 February 1720, RMA POST 103/4 pp. 3-6.

⁶²⁹ See Receiver General’s Entry Book 1755-1778, RMA POST 103/5, f. 25; ff. 96-98; f. 122; 125. When the French captured Menorca during the Seven Years’ War, Secretary of State Fox ordered the now defunct Minorca packet to be stationed at Gibraltar to “enable Lord Tyrawley (the Governor of Gibraltar) to send frequent advices to England by way of Lisbon,” Fox to Postmaster General, 12 August 1756, POST 103/5 f. 25. See also Fox to Postmaster General, 12 August 1756, RMA POST 103/5 f. 25 and Robert Hampden to Lords Commissioners of the Treasury, 21 April 1762, RMA POST 103/5 ff. 96-97.

War in the Mediterranean—where so many competing imperial powers jostled shoulder to shoulder—meant that packet ships faced great danger at sea. Not only did they carry crucial information about the plans and movements of the Army and Navy, they also often carried bullion to pay troops and any merchant freight that captains could muster.⁶³⁰ At the beginning of the North American rebellion, British merchants in Portugal “much alarmed and given the greatest reason to be apprehensive for the safety of their effects” petitioned that the Lisbon packets be armed.⁶³¹ The *Earl of Bessborough* packet—the ship governor Murray awaited so often during the American War was in even greater peril. With the French in possession of nearby Corsica, privateer attacks on the packet were routine, and Captain Shrieves, commander of the *Bessborough*, had to ply sailors with extra money to convince them to embark on such a dangerous enterprise.⁶³² Despite the danger, and the slim rewards, Shrieves promised: “I shall do every thing in my power for the good of the service, as I flatter myself that no man can have it more at heart.”⁶³³ The *Bessborough* withstood several attacks, but mail service between Menorca and mainland Europe remained unpredictable, and within a year of writing those brave words, Shrieves would be dead, killed in a privateer attack.⁶³⁴

Out of communication with London, British officials in the Mediterranean relied on each other for news and advice. Consul Collet sent Murray his “best and fastest

⁶³⁰ Kay, *Royal Mail*, 94.

⁶³¹ Henry Frederick Carteret, Postmaster General, to Lords Commissioners of the Treasury, 9 October 1776, RMA POST 103/6 f. 22.

⁶³² Murray to Anthony Todd, 19 May 1778, RMA POST 103/6 f. 35; Edward Shrieves to Anthony Todd, Leghorn, 10 June 1778, RMA POST 103/6 f. 35.

⁶³³ Shrieves to Todd, 10 June 1778, RMA POST 103/6 f. 35.

⁶³⁴ See Murray to Weymouth, 20 June 1779 and 8 July 1779, TNA CO 174/12 ff. 152; 161.

advices” on the rare occasions that he could find a neutral vessel that might reach the island. He also sent news and advice to London when Menorca was blockaded. During Murray’s distressing isolation in 1779, Collet promised Secretary of State Weymouth that if he should hear any important news he would “punctually communicate the same to your Lordship as I do constantly to Mr. Poyntz at Turin.”⁶³⁵ Desperate for the government dispatches, however, Murray engaged the Judge of the Vice Admiralty court, George Sutherland to smuggle dispatches from London with him through France on his way back to Menorca from England. Traveling through Genoa, and with the help of Consul Birbeck in Nice, Sutherland and his son boarded a neutral Sardinian vessel, disguising the dispatches as pieces of rope, and hiding them “under old sails and cordage.”⁶³⁶ Despite Sutherland’s valiant efforts to bring the dispatches to Menorca, he was captured and imprisoned in France. Unable to destroy the dispatches in time, they fell into the hands of the French.⁶³⁷

Letters and dispatches were not the only documents that held together the British Mediterranean world. The eighteenth century was also a period of a great proliferation of print culture. Newspapers, broadsides, books, and pamphlets, drew readers in far corners of the empire into what Benedict Anderson describes as “imagined communities”—

⁶³⁵ Collet to Weymouth, 3 July 1779, TNA Foreign Office (hereafter FO) 28/1 ff. 139-140.

⁶³⁶ Joseph Brame to William Deane Poyntz, 14 November 1778, HL HM 45738; James Sutherland, *The Case of Mr. Sutherland, Late Judge of the Vice Admiralty Court of Minorca Stated in a Memorial to the King* (London, 1785).

⁶³⁷ Sutherland, *The Case of Mr. Sutherland*. While in prison in Marseilles, Sutherland wrote a letter to Benjamin Franklin, imploring him to intercede with the French on his behalf. Sutherland was fired from his job as Vice Admiralty Judge after a feud with Murray, was brought to trial for treason in 1785 and committed suicide in 1791. See *The Times*, 18 & 19 August 1791, 515. See also *An Elegy on the Death of James Sutherland, Esq. By Eunohoo* (London: J.S. Jordan, 1791) and *A Letter to the Electors of Great Britain. By James Sutherland, Esq. Late Judge of the Admiralty at Minorca* (London: J.S. Jordan, 1791).

uniting them into a virtual nation of common language and literature.⁶³⁸ Jürgen Habermas argues that print and the development of the press also had major effects on the development of merchant networks and the public sphere. Long-distance trade created not only traffic in commodities, but in news as well. Merchants corresponded with factors and agents across the globe and depended on whatever news they could gather that might help them decide the price of their goods or find new markets. Habermas argues that the circulation of news was vital for the development of merchant networks, but that at the end of the seventeenth century, private and secretive merchant correspondence gave way to a more public form of communication: the press.⁶³⁹ Although the proliferation of print culture and the press had dramatic effects on what, how, and how much eighteenth-century readers consumed, studies of merchant letters such those by Francesca Trivellato and David Hancock have demonstrated that private merchant correspondence and personal relationships continued to play a crucial role in the lives of merchant communities long after the rise of print technology and newspapers.⁶⁴⁰ Although newspapers were an efficient way to receive information from far off places, as any eighteenth century reader knew, first-hand information from a trusted friend was usually more reliable, and for merchants, the networks they created facilitated bonds of familiarity and trust that could only be cultivated by personal letters.

⁶³⁸ Anderson, *Imagined Communities*.

⁶³⁹ Habermas, *Structural Transformation*, 15-16.

⁶⁴⁰ Francesca Trivellato, *The Familiarity of Strangers: The Sephardic Diaspora, Livorno, and Cross-Cultural Trade in the Early Modern Period* (New Haven CT: Yale University Press, 2009), Chapter 7 "Cross-Cultural Trade and the Etiquette of Merchants' Letters"; David Hancock, *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (Cambridge: Cambridge University Press, 1997) and *Oceans of Wine: Madeira and the Emergence of American Trade and Taste* (New Haven CT: Yale University Press, 2009). See also Ogborn, *Indian Ink*.

Newspapers and letters often worked in tandem: printed material might be sent alongside glosses and critiques in private letters, while private letters from those who had witnessed or taken part in important events were often printed in the public press.⁶⁴¹ The dissemination of printed news helped keep merchants informed about events that might affect their trade, but also announced the delivery and collection of the post and the arrival and departure of packet boats.⁶⁴²

Government officials, too, sometimes looked to the press for their news. Secretaries of State often distributed the government mouthpiece, *The London Gazette*, to diplomats and governors to publicize important events. But information printed in the public press lacked the authority of the written (and authenticated) word. Newspapers, which lacked the accouterments of authority and authenticity—seals and signatures—could neither verify news nor invest recipients with any power to act. In 1779, a year after Murray's long wait for the letters of marque against French vessels, his trouble with the mail began again.⁶⁴³ Although at first the Spanish had remained neutral, by July 1779 Murray heard from the *London Gazette* that war with Spain had broken out in June and that King had issued letters of marque against the Spanish—letters that once again could not reach the island because of the French blockade. Acutely aware that true power could only be conferred by properly authenticated parchment, wax, and ink, the judge of the

⁶⁴¹ For example, when in 1756, the British lost Menorca to the French, dispatches of Admiral Byng, sent to relieve the garrison, were widely printed in the press, stoking public furor and support for his eventual court martial and execution for failure "to do his utmost" to relieve the siege. See the *London Gazette*, 26 June 1756.

⁶⁴² For example daily entries of "Port News" such as "Falmouth, July 29, Sail'd the King George Packet, Blewer for Lisbon, the Revival, Ball, for Carolina and the Bonetta, Chamberlain for Oporto," *Daily Post*, 3 August 1742.

⁶⁴³ Murray to Weymouth, 14 September 1779, TNA CO 174/12 f. 189.

Vice Admiralty Court denied Murray's request to grant temporary letters of marque against the Spanish. Newspaper reports of war were useless, he ruled, without the authority of the "Great Seal of Great Britain."⁶⁴⁴ Ironically, Secretary Weymouth had in fact declined to send the official commissions to the island, deeming it too dangerous for such precious documents to be sent on a foolhardy mission through the post. Instead he had sent only copies of the orders. "The original will remain in my office," he wrote, "til a proper opportunity offers for conveying it to you."⁶⁴⁵ Although newspapers could disseminate the information printed on their pages, they could not transmit authority; documents that bore the proper signatures and seals, however, might be too valuable to trust to a mail system compromised by wartime blockades.

For merchants, government officials and other Britons living in the Mediterranean, correspondence required a careful balance of news and gossip, secrecy and formal orders. Speculation about impending wars traveled in all circles and ranged from real and important intelligence to futile conjecture. In November 1776, Genoa Vice Consul Joseph Brame wrote that the Spanish post brought letters from Cadiz where "Opinions about a War were various, tho' west India products were rising."⁶⁴⁶ In June 1779, Collet wrote to Poyntz that "a particular friend" received a letter from a "person of some consequence in Spain" assuring him that attacks on Gibraltar and Menorca were imminent.⁶⁴⁷

⁶⁴⁴ Murray to Weymouth, 21 July 1779, TNA CO 174/12 f. 165.

⁶⁴⁵ Weymouth to Murray, 27 July 1779, TNA CO 174/12 f. 158.

⁶⁴⁶ Joseph Brame, Genoa, to William Deane Poyntz, Turin, 10 November 1776, HL HM 45720.

⁶⁴⁷ John Collet to Poyntz, 5 June 1779, HL HM 45903.

Despite the gossip and conjecture that might circulate in merchant or diplomatic circles, for government officials, secrecy was paramount to protecting military and diplomatic strategy. Officials would go to great lengths to keep sensitive information private. Stealth and secrecy were important in the Mediterranean, both because of the valuable information that letters held, but also because of the great power vested in the documents themselves—documents that gave the bearers the right to wage war, or in the case of Mediterranean passes, to escape it. Letter-writers in the Mediterranean took precautions so that their mail would not go astray and so that important information would not fall into the wrong hands. Letters sent by regular mail were often brief and seldom contained details of political or military significance. Those details were relegated to letters that would be personally conveyed by trusted associates and often passed through various consuls at important port cities such as Livorno, Barcelona, or Genoa.⁶⁴⁸ The most secret government documents would be written in cypher—a numerical code meant to keep unwelcome eyes from grasping their meaning.⁶⁴⁹ When, in 1770, Governor Johnston of Menorca sent a letter to London complaining of the sorry state of the troops and fortifications, the Secretary of State sent him back a stern reply: “I was extremely sorry to see a letter of that kind come through France by the Common Post; as there is not the least Doubt but the contents of it are known there.”⁶⁵⁰ So important was this secrecy that captains of packet ships that carried government dispatches were ordered to sink the

⁶⁴⁸ See for example, Murray to Weymouth, 24 February 1779, TNA CO 174/12 f. 71; Murray to Weymouth, 21 July 1779, TNA CO 174/12 f. 165; Murray to Weymouth, 20 June 1779, TNA CO 174/12 f. 152.

⁶⁴⁹ See for example, Cornwallis to Shelburne, 6 June 1768, TNA CO 91/16.

⁶⁵⁰ Weymouth to James Johnston, 14 December 1770, TNA CO 174/6 f. 121.

mail if the packet was in danger of capture.⁶⁵¹ In spring 1779, for example, dispatches from Consul Collet to Lord Weymouth were lost when the Ostend Packet, mistaking a British cruiser for an enemy ship, threw three mails overboard—adding, no doubt, to the growing communication crisis of the American War.⁶⁵²

Over the course of their three-year correspondence, Genoese consul Collet and chargé d'affaires Poyntz kept each other apprised of the movement of American, French, and Spanish ships in the Mediterranean and sent each other copies of the circular letters that kept British consuls abreast of new orders or policies from London. They gave advice about how to deal with the complicated system of Mediterranean passes, sent copies or extracts of interesting and important correspondences, and provided each other with the odd bit of gossip about the lives of others in the small circle of British merchants and officials in the Mediterranean. From the tone and tenor of their letters, it is clear that the two formed a surprisingly friendly and intimate relationship—without ever meeting face to face. When Collet heard in 1779 that Poyntz would soon be leaving his diplomatic post in Turin he wrote: “The kind, and friendly manner in which you have so obligingly Conernitted me to correspond with you, makes me interest myself in what may regard your future situation. I flatter myself you will not quitt Italy without calling at Genoa [...] I have long desired a personal interview to confirm to you how much I wish to cultivate your acquaintance.”⁶⁵³

⁶⁵¹ Robinson, *Carrying British Mails*, 33.

⁶⁵² Collet to Weymouth, 8 May 1779, TNA FO 28/1 f. 139.

⁶⁵³ Collet to Poyntz, 31 August 1779, HL HM 45751.

These long-lived correspondences between virtual strangers were not at all uncommon—even among families, especially the merchant families whose members spread all across the world—creating networks of familial trust and global trade. For example, Esther Black wrote from Dublin to her brother Alexander living in Cadiz: “I have long wished for an opportunity of beginning a correspondence with you, as I see very little likelihood of our meeting to converse face to face...when you are tired with casting up large sums & settleing accoumpts,” she wrote, she hoped he would “sit down & scribble over a piece of paper which would be a most agreable preasnt to me.” Esther went on to say that her peculiar family arrangement made “people stare sometimes when I tell them I have brothers & a sister that I really don’t know, otherwise than as we converse by letter.”⁶⁵⁴ The Blacks were a family of Scotch-Irish merchants, who traded wine, linen, and other goods primarily with southern Europe and later the West Indies and India. Esther was one of thirteen brothers and sisters who were scattered across the globe—several of whom had never met in person.⁶⁵⁵ For Esther and her family, the familial bond could be expressed (and cultivated) only on paper.

MERCHANT NETWORKS: THE BLACK FAMILY

Letters held together not only a network of British administrators, but also a web of far-flung merchants, creating virtual communities of trust and trade—communities built on the pages of circulating paper. Merchant families, such as the Blacks, maintained

⁶⁵⁴ Ester Black, Dublin, to Alexander Black, Cadiz, 14 October 1759, HL HM 49131.

⁶⁵⁵ In the 1750s they were in London, Boulogne, Bordeaux, Cadiz, Lisbon, Cork, Dublin, Douglas, Belfast, Edinburgh, and Aberdeen. See James Livesey, *Civil Society and Empire: Ireland and Scotland in the Eighteenth-Century Atlantic World* (New Haven CT: Yale University Press, 2009), 131; Kitty [Katherine] Turnley [Black], Dublin to Alexander Black, 30 September 1759, HL HM 49225.

both their trade and family ties through regular correspondence. The circulation of correspondence was key to managing orders, debts, and personal business from afar. Merchants also depended on one another to maintain strong business contacts and make important introductions—often entirely through letters. While governors and diplomats attempted to maintain the often permeable web of British authority through constant communication, merchants like the Blacks turned to letter writing to advise each other about how best to avoid the wars, laws, and imperial competition that could hurt their trade or imperil their lives.

The Blacks' impressive network of letters and letter writers circulated vital instructions for their international business interests: accounts of monies spent and owed, instructions for the purchase of goods, and news of the travels of business associates, goods, and family members—mirroring in miniature, the authority distribution systems of the imperial state. Like the government itself, correspondence allowed the Blacks to carry out the administrative necessities of both business and family life over great distances. Another vital part of Black family strategy was developing and sharing strong merchant contacts through regular correspondence, references, and introductions.

Francesca Trivellato argues that merchants developed bonds of trust over long distances by employing an epistolary style that relied heavily on expressions of friendship, love, and affection—sentiments that built bonds of trust and implied reciprocity.⁶⁵⁶ Maintaining trust over long distances was key to successful mercantile trade, and the Blacks did it by expanding their merchant network through their

⁶⁵⁶ Trivellato, *The Familiarity of Strangers*, 181.

multitudinous progeny, cultivating a wide and diverse circle of correspondents, flexible national and cultural allegiances, and through their voluminous letters—many of which expressed values of love and obligation along with the details of their trading business.

The Blacks were prolific correspondents, particularly the patriarch John Black, a wine merchant in Bordeaux, who held together his scattered family by constant letters, peppered with instruction on faith, moderation, and prudence in the pursuit of trade. The family had close ties with Cadiz through their factory, Bowman Black & Company. John's brother Charles, who was also involved in the trading house, had been the British consul there before his disastrous tenure as consul at Algiers.⁶⁵⁷ The factory at Cadiz gave the Blacks access both to the Atlantic trade from the Spanish colonies, as well as to British ships on their way into and out of the Mediterranean sea. Cadiz had a thriving community of British merchants. Developing strong contacts with British merchants at Spanish and Portuguese ports was important for any serious London merchant, and many of them had worked in trading factories in Spain after their apprenticeships to foster business contacts. Indeed the Blacks sent the young Alexander to Cadiz after his apprenticeship with his brother-in-law, Isaac Simon, to work at the counting house of his uncle Robert's company.⁶⁵⁸

For the Black family, commercial and family correspondence ran together. News of John Black's "too too scattered... patriarchate" flowed continuously through his hands—the hub of a virtual familial space built on gossip, advice, complaints, and

⁶⁵⁷ See Chapter 3.

⁶⁵⁸ Davis, *Shipping*, 234; John Black to Alexander Black, 14 March 1750, HL HM 49152; John Black to Alexander Black, 12 October 1753, Public Record Office Northern Ireland (hereafter PRONI) D719/46.

descriptions of life—all traveling the world on paper and parchment.⁶⁵⁹ The Blacks often expanded their circle of trading contacts through marriage, integrating important trading partners into their family network.⁶⁶⁰ Alexander was one of several Black who had been apprenticed to Isaac Simon at Dublin, and the Dublin Blacks were closely involved in trade with John at Bordeaux and Robert at Cadiz. The Blacks also kept up these connections by “sending their love and regards” to other family members or trading partners with whom the family worked closely. Letters to Alexander or Robert invariably sent love and regards to “Mr. Bowman,” partner in the factory at Cadiz. John and his wife Margaret made Bowman the godfather of their son Joseph⁶⁶¹ and even attempted to make a match between Bowman and their daughter Jane. The courtship, however, seems to have been an abject failure—Jane, having “an utter aversion to Spain,”⁶⁶² as well as conflicts with her future mother and sister in law.⁶⁶³ Although the failed match created some tensions within the Black network, a series of letters between John Black and Joseph Bowman eventually healed the rift.⁶⁶⁴ Constant communication was so important for the family that the elder John Black’s letters are full of exhortations to keep in better touch. As he wrote to his son Alexander: “if you knew how exceedingly desirable it is to

⁶⁵⁹ John Black to Alexander Black, 31 January 1761, PRONI D719/54.

⁶⁶⁰ Robert Jr. took his own nephew as apprentice. John Black Blamont [Ireland] to Robert Black, Cadiz, 22 September 1759, HL HM 49169.

⁶⁶¹ John Black to Robert Black, 12 February 1746, HL HM 49167.

⁶⁶² John Black to Robert Black, 18 May 1743, PRONI D719/11.

⁶⁶³ John Black to Robert Black, 7 February 1739, HL HM 49165; John Black, Bordeaux, to Robert Black, Cadiz, 7 February 1739, HL HM 49165; John Black to Robert Black, Cadiz, 14 February 1738, PRONI D1950/13.

⁶⁶⁴ See for example, [John Black] to Joseph Bowman, 5 January 1743, PRONI D719/10C.

me to hear often of yours as well as of all the too dispersed branches of my family's health & welfare I flatter my self you would nott soe long have kept silent..."⁶⁶⁵

The family correspondence also allowed the Blacks to carry out the administrative necessities of both business and family life over great distances. They transmitted their authority through their signatures and seals, and on occasion, instructed family members to stand in their stead. John, living in Bordeaux, sent via post his consent for his son in Cadiz to marry. Unable to attend the wedding himself, he instructed his cousin Robert to "in my name sign the marriage contract."⁶⁶⁶

For the Blacks, the authority of a signature might be transmitted from afar, and the opinions of family members present in far away places might trump the need to consult books, papers, and official documents. When Robert Black died in Cadiz, Alexander's brother, Robert's namesake and heir, wrote to Cadiz asking Alexander to consult a lawyer and some of his "most intelligent friends," in order to settle his uncle's estate. "[I'm] perfectly satisfy'd," Robert wrote to his brother, "that you will act in every respect to the best of your judgment for my Interest and that it is much better for me to have you there to act for me than that I should be there and manage for myself." Robert instructed Alexander to write him as soon as he sorted out the estate, sending him a letter via Barcelona (where many ships would be traveling from Cadiz in the summer).⁶⁶⁷ When Alexander sent the glum news that Uncle Robert's estate was deeply in debt, his brother wrote back: "your writing me so is as satisfaction as if you were to

⁶⁶⁵ John Black, Bordeaux, to Alexander Black, Cadiz, 4 August 1753, HL HM 49158.

⁶⁶⁶ John Black to Alexander Black, 14 March 1750, HL HM 49152.

⁶⁶⁷ Robert Black, Douglas, Isle of Man, to Alexander Black, 2 February 1761, HL HM 49200.

send me all his books & papers.” Black opinion was divided, however, on whether the brother’s word was as good as authoritative documentation. John Black Sr. instructed Robert to send for all the papers in the hands of their agent in London, believing that his brother’s financial situation could not have been so dire, and determined to see official proof in writing.⁶⁶⁸

Another vital part of Black family strategy was developing and sharing strong merchant contacts through regular correspondence, references, and introductions. Writing to Cadiz in 1744, John Jr. described several new contacts, and wrote that he and his father “sincerely wish his or any other of our correspondents” would be useful to his uncle’s trade.⁶⁶⁹ This networks of communication could be further promoted by benevolence and reciprocity based not only on familial ties, but also on national bonds. After his uncle’s death ended the family trade in Cadiz, Robert suggested that his brother Alexander take up trade in Alicante, where, he had heard through a contact in Barcelona, “a gentleman who had been establish’d at alicant and was in a way of makeing a handosme fortune there in a short time was leately dead at Dublin.” Robert suggested that with his knowledge of the Spanish language, culture, and trade, Alexander might make a good living by taking up the merchant’s contacts and going into business in Alicante.⁶⁷⁰ His ties to both Spain and Dublin, Robert postulated, might serve to more easily cultivate a trade network there. With such an international pedigree, in fact, the Black had several national and cultural allegiances on which they might rely. Writing to his uncle Robert in

⁶⁶⁸ Robert Black, Belfast, to Alexander Black, Cadiz, 10 July 1761, HL HM 49201.

⁶⁶⁹ John Black, Bordeaux to Robert Black, London, 22 August 1744, HL HM 49177.

⁶⁷⁰ Douglas, Isle of Man, Robert Black to Alexander Black, 2 February 1761, HL HM 49200.

Cadiz, John Jr. described a trade contact, Mr. Ross, as an example of “that remarkable benevolence the Scottish people reprocally shew each other and of the principle they so firmly & generally adhere to, of preferably promoting their country men’s interests.”⁶⁷¹

Eighteenth-century merchants made new contacts via letters of recommendation, and even, in some cases, self-introduction. For example, in mid-eighteenth century France, so important were letters to the network of trade that merchants could purchase pre-printed form letters of self.⁶⁷² None of these appear among the Blacks’ papers, although the length of time it took for Alexander to find a new position after his uncle’s death seems to indicate that the various contacts his brothers, father, and friends suggested were not fruitful. On the other hand, when Alexander finally did leave Cadiz, his brother John wrote to him to thank him for “procuring the acquaintance” of several merchant houses some of which “to whom [I] wrote last post.”⁶⁷³ The contacts procured, cultivated, and developed must be maintained, even when a member of the family left the trade, and was to be maintained by recommendation and letter.

Letters between members of the Black family also allowed them to more safely navigate the dangers of the eighteenth-century maritime world by calling on their wider networks for intelligence about trade or war. Besides exporting wine from Bordeaux, and importing linen to Cadiz, the family ran a smuggling operation on the Isle of Man. The Dukes of Atholl had suzerainty over the island, and while the British crown had authority over matters of defense, the internal affairs of the island were principally the business of

⁶⁷¹ John Black, Bordeaux, to Robert Black, London, 22 August 1744, HL HM 49177.

⁶⁷² Trivellato, *The Familiarity of Strangers*, 182.

⁶⁷³ John Black to Alexander, 16 September 1761, HL HM 49174.

the Lord of Man. Much of this business was smuggling. The island was not subject to British tariffs, and was therefore an easy base from which to smuggle goods to Britain.⁶⁷⁴ In 1765, however, with the crown poised to take control of the island, Robert wrote to Alexander, now in London, asking him to “get intelligence” about what orders the Lords of the Admiralty might give concerning the seizure of those goods imported before the transfer of power. In order to get a leg up on his local competitors with expedient and exclusive information, he instructed Alexander to send any information he could gather with a boat pilot who would sail immediately and agree not to take any other letters to the island.⁶⁷⁵

As the century wore on, Europe’s repeated bouts of warfare interrupted the trade and communication of many merchants in maritime Europe. The Blacks tried, increasingly unsuccessfully, to use letters, documents, and their broad and mutable national allegiances to avoid the inconveniences and dangers wrought by national rivalry. Their wartime smuggling efforts sometimes involved false documents. During the War of Jenkins’ Ear, John Black wrote to his brother Robert to ask whether Seville oranges, lemons, and raisins could be brought to Portugal and provided with “sham certificates of their being Portuguese growth,” so as to circumvent a ban on trade with Spain. Certified as Portuguese fruit, they would be loaded into a neutral ship, and from there carried to Scotland.⁶⁷⁶

⁶⁷⁴ J. R. Dickinson, *The Lordship of Man under the Stanleys: Government and Economy in the Isle of Man, 1508-1704* (Manchester: Carnegie Publishing, 1996).

⁶⁷⁵ Robert Black, Douglas Isle of Man, to Alexander Black, London, 13 February 1765, HL HM 49207.

⁶⁷⁶ John Black, Bordeaux, to Robert Black, Faro, 26 November 1740, PRONI D 719/5.

Like the fruit of questionable provenance, the Blacks often tried to make their way in the world by subtly shifting their multiple identities and alliances. The political instability of the eighteenth century wars required that the Blacks cash-in on their layered allegiances to survive in a century of global warfare. As merchants, juggling and shifting these national identities was valuable and sometimes crucial for global success and survival. An international lot, the Blacks had an unstable national identity. As Scots, they had only recently come in to the British fold; as Belfastians, they were Protestants on an island of Catholics; as Bordelais or as Cadiz merchants, they had to navigate carefully the perils of Britain's near constant wars with France and Spain.

The male line of the Black family had emigrated to Ireland in the early seventeenth century,⁶⁷⁷ and proudly traced their heritage back to the Lamont clan in Scotland. John Black's father, although born in Ireland, spent his career in France, Holland and the West Indies.⁶⁷⁸ John Black Senior himself lived in Bordeaux for over fifty years and spent almost all of his working life there.⁶⁷⁹ Robert Black spent much of his working life in Cadiz, and used his connections with Ireland to profit (however temporarily) from the healthy trade with the island. All of John Black's children were born in France, and were, by the right of *jus soli*, French subjects. Many of their letters refer to Bordeaux as home. Growing up in France, their mother Margaret taught them

⁶⁷⁷ The Blacks probably came to Ireland as part of James I's colonization of the island. See John Black to Lord Lamont, 19 August 1723, PRONI D 4457/28 and Isaac W. Ward, "The Black Family," *Ulster Journal of Archaeology* 8 (1902): 176–88.

⁶⁷⁸ John Black to Lord Lamont, 19 August 1723, PRONI D 4457/28. See also PRONI D 4457/29 and Anderson and Jones, "Introduction," 5–6.

⁶⁷⁹ John Black, Bordeaux to Alexander Black, Cadiz, 23 July 1751, HL HM 49156.

English herself, “there being no school for that purpose at Bordeaux.”⁶⁸⁰ Their letters often switch seamlessly between languages and idioms. As French subjects, they celebrated Louis XV’s recovery from illness in 1744: “We have had thanks giving’s for the recovery of our good prince,” John Jr. wrote to his uncle in Cadiz, “whose mild & happy government makes his life most valuable & of the last importance to his subjects.”⁶⁸¹

Equally difficult to pin down is the Blacks’ religious and political persuasions. Nominally Protestant, the Blacks were a mixed, and sometimes suspect lot. In a period of tremendous fear of Jacobite insurrection against the monarchy, Scottish Highlanders, Irish-Catholics and the French were all under suspicion by most Britons. As I discussed in Chapter 3, Alexander’s uncle, Charles Black was dismissed from his post as the British Consul at Cadiz in 1726⁶⁸² accused of becoming Catholic, being “married to a papist,” and that he “kept a Priest in his house at Cadiz.”⁶⁸³ Through his connections with Spanish

⁶⁸⁰ Fragments of an autobiography by Joseph Black were found in 1766 wrapped around a bundle of letters from Montesquieu to John Black at Bordeaux. See William Ramsay and Frederick George Donnan, *The Life and Letters of Joseph Black With an Introduction Dealing with the Life and Work of Sir William Ramsay - Primary Source Edition* (Charleston SC: Nabu Press, 2014), 5.

⁶⁸¹ John Black, Bordeaux, to Robert Black, London, 22 August 1744, HL HM 49177.

⁶⁸² *Daily Post*, 19 February 1726.

⁶⁸³ Charles Black, Consul at Cadiz: Memorial to the Duke of Newcastle for reinstatement, BL Add MS 33057 f. 25.

ambassador William Stanhope,⁶⁸⁴ he was able to obtain his position as Consul at Algiers, but suspicion continued to surround him, and by extension, his family.⁶⁸⁵

Whatever complex and contradictory feelings the Black family may have had about their national or cultural identity, it is clear that like many involved in trade, they employed a flexible sense of national allegiance and subjecthood to promote their economic and personal safety. They used their various allegiances and identities to cultivate connections and correspondences vital for the survival of the family's transnational trading empire.⁶⁸⁶ In a letter to his brother Robert in Cadiz, John Black wrote that of son Alexander's travels:

His late progress has given an opportunity to know friends & their characters in the place of their abode besides you know that seeing a little of the world by traveling opens the ideas of the mind & takes off[f] the prepossessions & prejudices those are subject to who are only acquainted att home.

These experiences served a practical purpose. John Black was clear that Alexander must “now make proper use” of these advantages: presumably in the service of trade.⁶⁸⁷ The Blacks used their world experience as well as their various allegiances and identities to cultivate their business interests.

⁶⁸⁴ H. Walpole and W. Stanhope to Newcastle, 9 December 1728, TNA SP 78/188/176 f. 398. Stanhope recommend that Charles Black be appointed consul in Algiers. The Blacks refer to Stanhope as “Lord Harrington” throughout their letters and he seems to have been instrumental in procuring an annuity for Charles after his dismissal from his post at Algiers, see Charles Black, London, to John Black, Bordeaux, 11 August 1739, HL HM49130.

⁶⁸⁵ After his recall from Algiers, Charles waited on the Duke of Newcastle in 1739 and according to his letter to John, the Duke “welcomed me on my return to England and spoke to me in very Franck terms as a friend.” See Charles Black to John Black, 11 August 1739, HL HM 49130. However in a letter in 1744, John intimates that Charles' relationship with the Duke was less than friendly and the cause of Bowman Black & Co.'s difficulty recovering a debt owed them by the admiralty: “Were it not for some disadvantageous ideas the D.[uke of] Newcastle had of our brother, the government debt might be much more recoverable...” see John Black to Robert Black, [30] June 1744, PRONI D719/14.

⁶⁸⁶ For example see John Black, Bordeaux, to Robert Black, London, 22 August 1744, HL HM 49177.

⁶⁸⁷ John Black, Bordeaux, to Robert Black, Cadiz, 3 October 1744, HL HM 49166.

As for so many other people trying to make their way in a world of competing empires, war was the fulcrum around which expressions of national allegiance hinged. In Cadiz, in 1750, Alexander's French subjecthood was irrelevant to his trading interests there and he was considered a British merchant employed at a British factory. In 1761, when Spain looked poised to enter into war with Britain, however, identity, allegiance and subjecthood became essential tools for self-preservation. In December, John Jr. wrote, in French, to his brother Alexander at Cadiz:

“You should not worry of misunderstandings between Spain and England. You can be seen as English in Cadiz, having remained so long in an English house, but you're not, any more than we here. I will send by the next mail your legal baptismal certificate, with all the formalities and authentications. Meanwhile do not fail to introduce yourself to the Consul of France, to claim and beg him to grant you his protection as subjects of the King.”⁶⁸⁸

Born in Bordeaux, Alexander, like his siblings, was a French subject (a fact that John Sr. had taken advantage of by signing legal documents that put all of his French property in their names.)⁶⁸⁹ In 1750, working at a British trading house and shipping goods to Ireland, Alexander could comfortably settle into an unobtrusive, if uncertain, British identity. The changing political climate, however, would necessitate his relying on an alternate identity—that of a French subject. Living as he had for then years as a British merchant in Cadiz Alexander's protection as a French subject could not, however, be fostered solely by an audience with the French consul. It must be proven through formal and authentic paperwork. Whatever Alexander's complex allegiances, identities, and

⁶⁸⁸ John Black, Bordeaux, to Alexander Black, Cadiz, 30 December 1761, HL HM 49175.

⁶⁸⁹ John Black to Robert Black, 4 February 1741, PRONI D 719/6.

sentiments, it was “formal and authentic” paperwork that would become increasingly important in defining, proving, and at times subverting subjecthood in the multicultural world of the eighteenth-century Mediterranean.

SUBJECTS ON PAPER: DEVELOPING DOCUMENTARY SUBJECTHOOD

Formal and authentic paperwork was increasingly important in proving subjecthood—and the Blacks were not unique in their attempts to use documentary identity to navigate the perils of war. Paperwork had been the lifeblood of the British Empire since its inception. English monarchs issued charters for “the advancement of our honor, and dignity Royall, the increase of the revenues of our Crown, and general wealth of the Realme”⁶⁹⁰ or to “make Habitation, Plantation, and to deduce a colony of sundry of our People.”⁶⁹¹ As Joseph Strayer argues, “the founding of the colonies was a conspicuous example of well-to-do men performing a function that seemed desirable to, but beyond the resources of, early modern states.”⁶⁹² With these charters, private and commercial entities such as the East India Company, or the Levant company, were transmitted the power of a state through the medium of formal and authentic documents—documents that were imbued with the power of the sovereign.⁶⁹³ This practice was the foundation of the rapidly expanding British Empire. It also cultivated an

⁶⁹⁰ Elizabeth I, “The Letters Patents, or privileges granted by her Majestie to Sir Edward Osborne, Master Richard Staper, and certaine other Merchants of London for their trade into the dominions of the great Turke, in the yeere 1581,” in Richard Hakluyt ed., *Principal Navigations, Voyages, Traffiques, and Discoveries of the English Nation* vol. 3 (London: E.P. Dutton & Co., 1927), 64-72.

⁶⁹¹ First Charter of Virginia, 10/20 April 1606, William MacDonald ed., *Documentary Source Book of American History, 1606-1913* (New York: Macmillan, 1916), 1.

⁶⁹² Joseph Strayer, *On the Medieval Origins of the Modern State*, 106.

⁶⁹³ See Philip J. Stern, *The Company-State: Corporate Sovereignty and the Early Modern Foundation of the British Empire in India* (New York: Oxford University Press, 2011).

imperial system that outsourced violence and warfare to its subjects, a move Janice Thomson argues not only allowed rulers to avoid the expense associated with empire building but also gave them plausible deniability if their subjects exerted violence in politically problematic ways.⁶⁹⁴

By the mid-eighteenth century the Mediterranean was abuzz with mariners of different origins, faiths, and tongues who claimed the rights and protections of British subjecthood. Indeed, with such a diverse set of subjects, documents would become the only way to lay claim to those rights. Crucial to the “formal and authentic” nature of these documents was the use of signatures and seals as markers of authentication. As Menorca’s Governor Murray well knew, captains without letters of marque—the hefty and beautifully illustrated parchment issued by the Lords of the Admiralty in London—would be considered no better than pirates. Indeed Governor Murray’s long wait for the letters of marque was prolonged further when the letters, ready to be sent off to colonial destinations, were found to be marked with the wrong seal and had to be corrected before they could be dispatched, protracting their departure by a week.⁶⁹⁵ Despite the pressing need for these commissions in the colonies, the importance of the proper symbols of authority took precedence over expedience.

Commissioning private warships to work for the English government began in the Middle Ages and by the eighteenth century, various prize acts had codified the system.⁶⁹⁶

⁶⁹⁴ Janice E. Thomson, *Mercenaries, Pirates, and Sovereigns : State-Building and Extraterritorial Violence in Early Modern Europe* (Princeton, N.J.: Princeton University Press, 1994), 21.

⁶⁹⁵ *Morning Chronicle and London Advertiser*, 19 August 1778.

⁶⁹⁶ Henry III of England first issued what later became known as “privateering commissions” in 1243. See Francis R. Stark, “The Abolition of Privateering and the Declaration of Paris,” *Studies in History*,

The commissioners of the Lord High Admiral were responsible for the administration of these acts, a power exercised through the High Court of Admiralty and its colonial subsidiaries, the Vice-Admiralty Courts.⁶⁹⁷ These courts ruled on a variety of maritime cases, the most important of which were prize cases, which determined the legality of the seizures of enemy ships at sea. Other nations also had their own prize courts, and tricky cases often generated a large amount of diplomatic correspondence—especially when the national origin of the ships, cargoes, captain, crews, or owners were in dispute. British diplomats, such as William Poyntz, were often involved in facilitating the transfer (and sometimes translation) of paperwork between prize courts. Poyntz, as well Consul Collet often corresponded with Judges Sutherland and Collins at the Menorcan Vice Admiralty Court, providing them information about the veracity of a ship's claim to Sardinian or Genoese neutrality.⁶⁹⁸

Key to the legality of all seizures, of course, was a proper license to privateer—a letter of marque. To obtain this license, the commander, owners, or someone acting on their behalf must visit the Admiralty Court in London and produce a “warrant from the Lord High Admiral...for the granting of a commission or letter of marque.” He would make a declaration before the Admiralty judge consisting of a “particular true and exact account of the ship or vessel” to be commissioned. This declaration was to include the

Economics and Public Law 221 (1897): 272. Edward I granted letters of marque against Portugal in 1295 continuing the practice. See Ralph Eastman, *Some Famous Privateers of New England* (Boston: State Street Trust Company, 1928), 1. See also “Acts Relating to Prizes 1707-1832,” TNA HCA 30/524.

⁶⁹⁷ David John Starkey, *British Privateering Enterprise in the Eighteenth Century* (Exeter: University of Exeter Press, 1990), 22.

⁶⁹⁸ For example, précis of a memorial by count Perron of Turin, in regard to the case of the *Virgen de Roserie*, captured by John Cymarís and the crew of the *Tartan*. See Joseph Collins to William Dean Poyntz, 30 January 1779, TNA CO 174/12 f. 53.

name of the ship, its tonnage, crew size, and arms, as well as the names of its commander, officers, and owners. The Admiralty kept a register of this information, which gave them an accurate account of the privateers operating, and defined the person or persons responsible for the conduct of a ship's privateering activity.⁶⁹⁹ A bond and two reputable guarantors were required to assure the good conduct of the captain and crew.⁷⁰⁰

The parameters of their conduct, and the limits of a privateer's power, were conveyed to the captain in the "instructions to privateers" compiled by the Lords of the Admiralty and issued with the letter of marque.⁷⁰¹ Although the instructions contained a stable core of regulations, they were also modified over time—additional orders issued to meet the particular circumstances of war. In 1762, for example, the instructions contained specific instructions with regard to Sicily, because of complaints from the King of Sicily that "many inconveniences may arise from hostilities being committed in the Gulf of Naples by privateers belonging to either of the Powers at war." The instructions went on to "strictly enjoin the commanders of all ships...to abstain from any act of hostility against the ships and subjects of the French king within the Gulf of Naples during the present war."⁷⁰²

Both privateers and merchant ships also carried important paperwork, including the ship's manifest—which listed the cargo, passengers, and crew, bills of lading (receipts of the goods shipped on board), along with bills of health, which certified that a

⁶⁹⁹ Starkey, *Privateering*, 23.

⁷⁰⁰ Starkey, *Privateering*, 24.

⁷⁰¹ See for example "Instructions to Privateers," 27 March 1777, TNA HCA 26/60.

⁷⁰² Instructions for privateers against France, 4 June 1762, in R.G. Marsden ed., *Documents Relating to Law and Custom of the Sea Vol. II 1649-1767* (London: Navy Records Society 1916), 435.

ship and its last port of call were free of disease.⁷⁰³ These papers were not only essential to the smooth operation of maritime trade, but also helped establish the nationality of a ship during a seizure, as well as later in a prize court. Given the diverse and international nature of ships' crews, and (as in the case of the Scottish-Irish-French merchant Alexander Black living in Cadiz) the international characters of many of the merchants vying for space aboard a ship, these bills were vital for proving a ship's nationality should it be taken by a privateer. It was not only important that ships carry this paperwork to prove their nationality, but also that privateering captains carefully examine it before bringing a prize into port.

In January 1779, Juan Cymaris' armed rowboat the *Tartan* (the boat which Murray had hoped might fetch the mail from Livorno) captured yet another prize in the Mediterranean waters off Menorca—a ship named the *Virgen de Rosarie*. Cymaris and the crew of the *Tartan* had captured its first vessel while attempting to pick up Governor Murray's mail in September and by the end of December, Caymaris and the crew of the *Tartan* had captured eight ships.⁷⁰⁴ Although the *Virgen de Rosarie* was flying neutral Sardinian colors, and carried a pass from the Viceroy of Sardinia, Judge Collins found by examining the ship's papers and questioning the master that there were six Frenchmen one Maltese, and one Genoese on board. The only Sardinian subject, Cymaris argued,

⁷⁰³ Arthur Young and James Brisbane, *Nautical Dictionary: Defining the Technical Language Relative to the Building and Equipment of Sailing Vessels and Steamers, Seamanship, Navigation, Nautical Astronomy, Naval Gunnery, Maritime Law and Commerce, General and Particular Average and Marine Insurance, and Other Terms Relating to Maritime Affairs* (London: Longman, Green, Longman, Roberts, & Green, 1863), 37; 298; 38; 250.

⁷⁰⁴ "List of Prizes made by the Privateers fitted out in Minorca," TNA CO 174/12 f. 4; "List of Privateers fitted out in the Island of Minorca," TNA CO 174/12 f. 6.

was Simon Boccioni,⁷⁰⁵ the ship's master.⁷⁰⁶ Through Boccioni's deposition in Menorca's Vice Admiralty Court, Judge Collins concluded that the ship had been transferred to French owners, and that a Frenchman posing as one of the crew was in fact her true captain. Wary of angering neutral Sardinia, however, the judge wrote to William Dean Poyntz in Turin, asking for his advice about the marine regulations of the Vice Admiralty Court there. Judge Collins granted Boccioni sixty days to bring further evidence that the vessel was Sardinian. Collins confided to Poyntz, however, that he was doubtful that Boccioni would be able to produce such proof, especially since the Sardinian pass the vessel carried clearly stated that at least half of the mariners on board must be Sardinian subjects.⁷⁰⁷

After six months at Port Mahon and after letters and papers had been conveyed by William Poyntz between the Vice Admiralty Courts of Menorca and Sardinia, the fate of the *Virgen de Rosarie* was finally determined. In July 1779, Judge Sutherland, recently freed from captivity in Marseilles, looked over the evidence in the case and ruled that the seizure had been unlawful. He granted Boccioni the "right to claim demand and sue for damages, Loss, costs, and prejudices arising...by reason of the seizure and detention" of the Sardinian ship.⁷⁰⁸ Complicated cases like Boccioni's often took months to resolve and being liable for the damage and lost wages of an unlawful prize could be financially devastating for privateer captains and owners.

⁷⁰⁵ The secretary of Vice Admiralty Court in Menorca spelled his name Bochone. See Archivo Histórico de Mahón (hereafter AM) Real Gobernación (hereafter RG) 372/27 f. 514.

⁷⁰⁶ Joseph Collins to Poyntz, 30 January 1779, TNA CO 174/ 12 f. 53.

⁷⁰⁷ Collins to Poyntz, 30 January 1779, TNA CO 174/12 f. 53.

⁷⁰⁸ Decision of James Sutherland Vice Admiral of Minorca in the case of John Cymaris and Simon Bochone, Tartar Vigen de Rosery, July 1779, AM RG 372/27 f. 514.

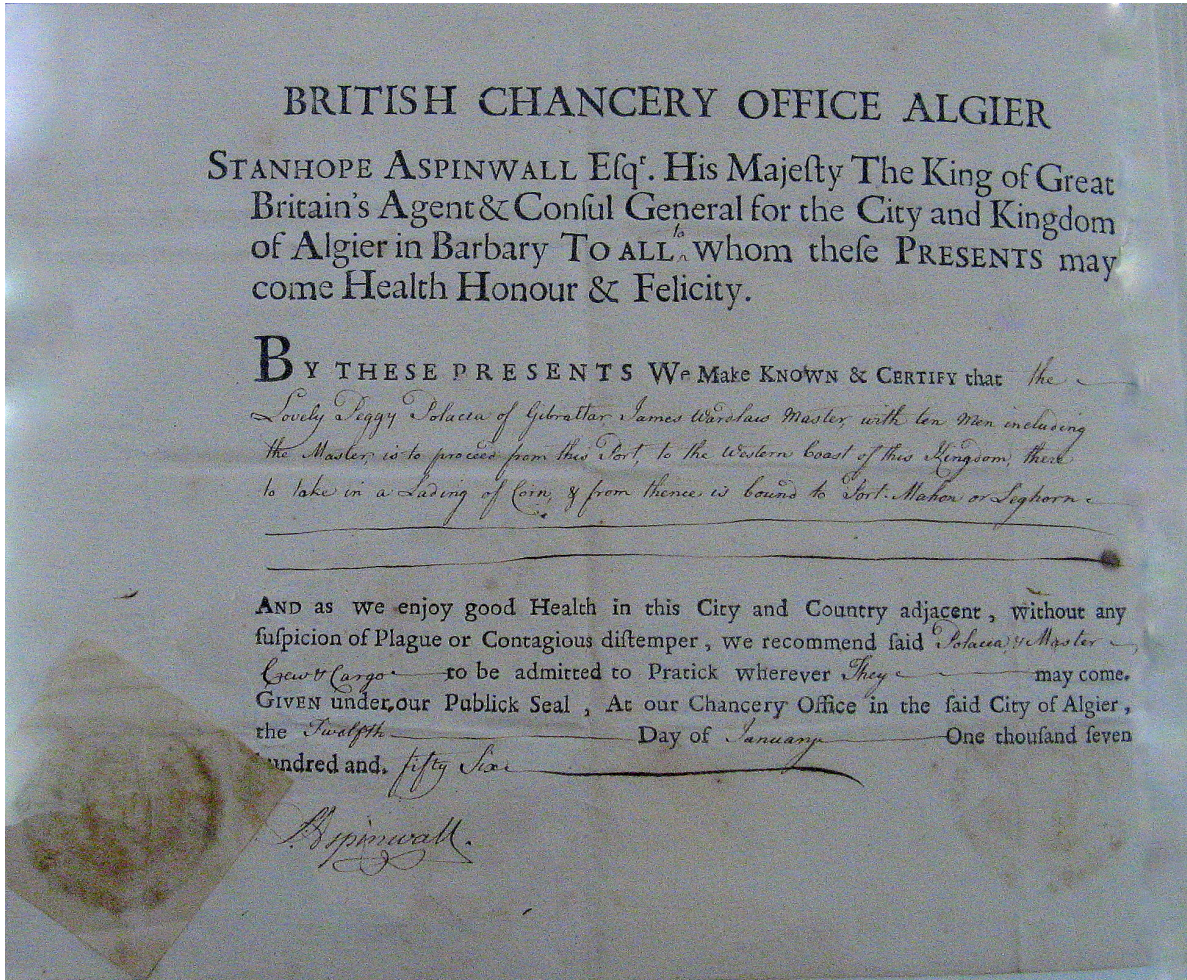
It was often difficult, however, for privateers to definitively determine the nationality of a ship at sea. If documents had been hidden, or captors heard contradictory evidence from the crew, they were instructed to submit for examination “all such papers, passes, sea briefs, charters, bills of lading, letters and other such writings” found on board the captured vessel, making oath that the documents were “brought in as they were received and taken without any fraud, addition, seduction, or embezzlement.”⁷⁰⁹ For example, when George Cockburn captured a ship near Port Mahon, he found his examination of seaman Thomas Scott to be “so contradictory to what the ship’s papers manifested” that he suspected that the sloop “was not the property of British Subjects and that she was upon an illicit trade.” Closer examination of the paperwork in court, however, showed that although Scott was using the Mediterranean pass of another master, other papers proved that his ships was British.⁷¹⁰

Although proper paperwork was crucial in determining prize cases, proper papers did not, of course, always save ships from attack, and privateers did not always heed valid documents. Ships of war sometimes slipped over the line from privateer to pirate. In 1746 the British *Concordia* was blown off course near Cadiz, on route to Gibraltar and Malaga. When the *Concordia* met with a British privateer, the crew was met with hostile cannon fire, instead of news or guidance. When the privateer’s captain boarded the *Concordia* and found her papers proved her to be friend instead of foe, he simply ignored the documents, and the crew helped themselves to “thirty pieces of checked Linnen” and

⁷⁰⁹ Starkey, *British Privateering*, 25.

⁷¹⁰ “Seizure of the Speedwell master Thomas Scott,” Gibraltar Government Archives (hereafter GGA) Vice Admiralty Court (hereafter VAC) Register of Decrees, 1776-1779, ff. 21-27.

“likewise plundered and carry’d away several things belonging to the master” for their trouble.⁷¹¹



Bill of Health, *Lovely Peggy*, Algiers, 1756

An example of a bill of health for a Gibraltar vessel bound from Algiers to Port Mahon with a lading of corn. Bill of Health for the *Lovely Peggy* of Gibraltar, James Woodward Master, from Consul Aspinwall at Algiers.

12 January 1756, Patents de Sanitat, AM PL 53.

⁷¹¹ Decision of Richard Dacres, Deputy Judge Advocate for Gibraltar, The Concordia, 22 September 1746, GGA, Civil Court Registers of Protest, 1743-1747 f. 120.

Mediterranean Passes and “Passing”

Letters of marque gave British subjects the right to make war in the sovereign’s name. Conversely, Mediterranean passes protected British ships from attack.⁷¹² These passes became a key vehicle by which sailors could claim the rights and protections of British subjects—not only from attack by North Africans, but also as part of a body of documents that might keep them safe from (law abiding) British privateers. This paper-based proof of national allegiance allowed a multitude of people from all over the Mediterranean to claim British protection, legally and illegally.

Engraved on heavy parchment, Mediterranean passes were beautifully decorated, often with maritime scenes. The passes contained the name ship and master, the tonnage, the number of guns and men on board, and the date of issue. Like letters of marque, the passes themselves were reinforced by other paperwork. Any ship bearing a Mediterranean pass must be British-built, or captured from an enemy and “made free.” Masters of a vessel must be British subjects or Protestant Denizens, and at least two thirds of the crew British subjects. In addition, captains were required to swear an oath confirming where the ship was constructed and the nationalities of the owners and crew. The Admiralty kept a register of passes along with the details from the oaths and other certificates.⁷¹³

⁷¹² Mark Salter discusses letters of marque as a mirror of “safe conduct passes” in *Rights of Passage: The Passport in International Relations* (Boulder CO: Lynne Rienner Publishers, 2003), 17.

⁷¹³ Register of Passes, TNA Admiralty (hereafter ADM) 7/76. See David Richardson, *Mediterranean Passes in the Public Record Office* (London: Microform Academic Publishers, 1981).

The text of the passes read: “Suffer the ship...to pass with her Company...The said Ship appearing unto Us by good Testimony to belong to the Subjects of His Majesty and to no Foreigner: Given under Our Hands and the Seal of The Office of Admiralty.”⁷¹⁴ Passes were issued only upon the deposit of a bond, to be returned to the Admiralty after their expiration. Any pass not returned would mean that bond was forfeited, a fact that in the unpredictable world of winds, squalls, and attacks, caused more than a few appeals from captains and owners for leniency for ships late in their return.⁷¹⁵

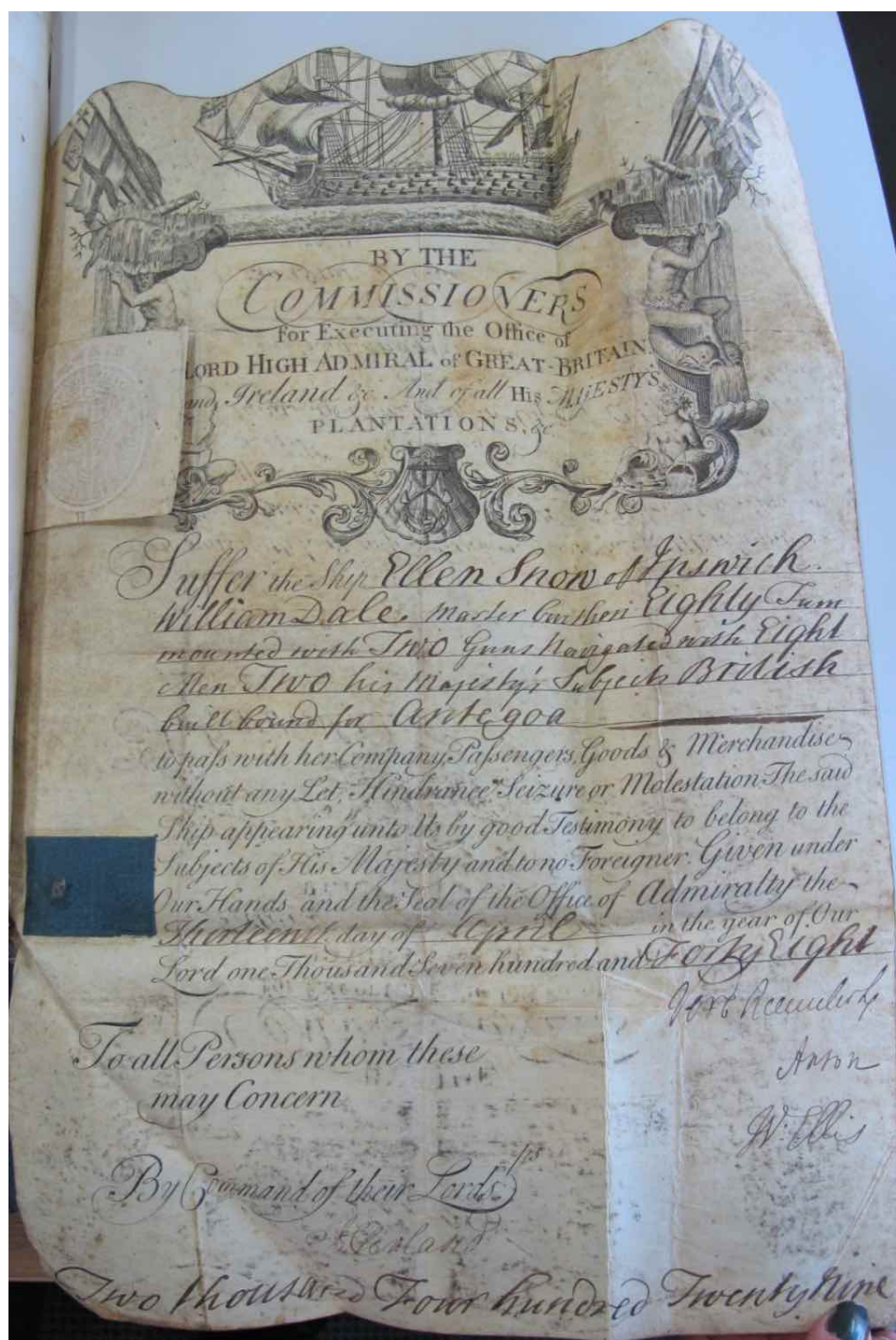
In the multilingual Mediterranean, a system emerged that did not require mariners to speak the same language or even be able to read. Before their issue, the passes were decorated with intricate illustrations and then cut in half in a distinctive scalloped pattern. The bottom half went aboard British vessels and the tops were distributed to the captains of the Barbary Cruisers. When these captains boarded British ships, the two halves, reunited, completed the image and proved the authenticity of the pass.⁷¹⁶ The Admiralty changed their form and cut several times to ensure that expired passes could not fall into the wrong hands.⁷¹⁷

⁷¹⁴ See for example the bill of health for the *Lovely Peggy*.

⁷¹⁵ See, for example GGA VAC Requests, Protests etc. 1749-1751.

⁷¹⁶ Peter Earle, *Corsairs of Malta and Barbary* (London: Sidgwick & Jackson, 1970), 41; Tito Benady, “The Settee Cut: Mediterranean Passes Issued in Gibraltar,” *Mariner’s Mirror* 47, no. 2 (2001): 282.

⁷¹⁷ The form of the passes was changed in 1722, 1730, 1753, 1766, 1777, 1804 and 1820. See Benady, “Settee Cut,” 282.



Mediterranean Pass, Ellen Snow, 1748

An example of a scalloped Mediterranean pass. The passes were printed on a single sheet of vellum, and cut in a distinctive scalloped pattern.

Mediterranean Pass for the *Ellen Snow*, 13 April 1748, TNA ADM 1/383.

The pass system dated back to the seventeenth century, but Britain's acquisition of new Mediterranean colonies radically altered the cultural, religious, and linguistic make-up of the British subjects who sailed that sea. British subjects were no longer distinguishable by language, culture, or place of birth. The Mediterranean, then, by the mid-eighteenth century was abuzz with mariners of different origins, faiths, and tongues, claiming the protection of British subjecthood. While important for the survival of the garrisons, and a practical necessity to maintain British rule in a sphere in which Britain had neither much territory nor many settlers, the expansive definition of subjecthood would create an opportunity for diverse people to use Mediterranean passes for their protection. Far from controlling groups and individuals through surveillance, the paper-based protection enabled a wide group of people to claim British subjecthood.

Despite treaties that made explicit that all inhabitants of the Mediterranean colonies should be "considered and esteemed British Subjects," North African privateers were often galled to find their longtime enemies such as Maltese or Spaniards, Corsicans or Genoese sailing freely under British passes. By the eighteenth century, North African privateers had made treaties with many of the major European powers and often relied on capturing ships, slaves, and goods from smaller nations. The fact that sailors and captains who did not live in either Gibraltar or Menorca illegally made use of these highly coveted passes made the murky question of subjecthood even more fraught. After complaints from North Africa and the capture of several Menorcan and Gibraltarian vessels in the

1720s, the Privy Council had ordered that passes of a “particular form” and only lasting one year should be issued to the inhabitants of Gibraltar and Menorca.⁷¹⁸ Despite this change, the pass system in the Mediterranean was prone to abuse. Passes were bought and sold, erased and reused, forged and falsified. “Captain of the flag” or “*capitano di bandiera*” quickly became its own occupation in Gibraltar and Menorca. These British subjects legally obtained Mediterranean passes because they were residents of a British colony. Instead of using the passes to safely provision the garrisons, however, they would serve nominally as captains of foreign ships, providing them with the safety of a Mediterranean pass in return for a lucrative salary, and no actual sailing or navigational duties.⁷¹⁹

Easier to fake or find than Mediterranean passes were the handwritten *passavants*—temporary passes that governors and consuls were in the habit of writing when the official passes were delayed in their journey from London or otherwise unavailable. The aftermath of the Seven Years’ War caused a surge in *passavants*. With the British government staggering back into power in 1763, Lieutenant-Governor Johnston resorted to writing *passavants* for Menorcan ships, so that they might safely supply the Garrison while the complicated matter of applying for official Admiralty passes was being resolved. To North African privateers, however, these *passavants* were suspect because the captains of Barbary cruisers did not know each governor or consul’s signature or seal, and they did not have the matching “other halves” that authenticated the

⁷¹⁸ Committee Report on complaints of the merchants touching money paid for mediterranean Passes,” 18 December 1729, TNA Privy Council (hereafter PC) 2/91 ff. 114-115. See Benady, “Settee Cut,” 286.

⁷¹⁹ Benady, “Settee Cut,” 292.

Admiralty passes. One angry Tripolitan privateer, when presented with a Menorcan passavant, “trampled upon [it] swearing that is was good for nothing but for making the vessel a good prize.”⁷²⁰

In 1764, the Dey of Algiers made a formal complaint to the Privy Council against Governor Johnston of Menorca, accusing him of “granting Mediterranean passes to foreigners and enemies.”⁷²¹ The Dey seized several Menorcan ships and their cargo. In August, Consul James Bruce, wrote to London that John Stephanopli, Captain of the *San Vincentio*, had arrived at Algiers from Genoa with a pass written by Governor Johnston. “The Dey,” wrote Bruce “without communicating his intention in any way to me, sent and took his passport from him, and directed the ship and funds on board to be seized and confiscated, the captain and crew stript of every thing, and immediately condemned to slavery.”⁷²² Because of the proliferation of these handwritten *passavants* in the Mediterranean, the Dey “was resolved to seize every vessel that had not an Admiralty pass.”⁷²³

Despite the complaints about the proliferation of *passsavants*, Consul Bruce argued that their transitory nature in fact provided greater proof of subjecthood. If an enemy again seized Gibraltar or Menorca, Bruce argued, the precious Admiralty passes might “be distributed among hands not qualified to bear them”—a situation that had

⁷²⁰ Charles Hudson to Thomas Harrison, 7 September 1765, TNA ADM 1/385.

⁷²¹ Committee report on the complaint of the Dey of Algiers against Colonel Johnston, Lieutenant Governor Minorca, for granting Mediterranean passes to foreigners and enemies contrary to Treaty, 25 March 1765, TNA PC 1/7/39/147.

⁷²² Bruce to Halifax, 20 July 1764, James Bruce, *Travels to Discover the Source of the Nile, in the Years 1768-1773* (Edinburgh: Ballantyne, 1804), ccvi.

⁷²³ Bruce to Halifax, 20 July 1764, Bruce, *Travels*, ccvii.

indeed come to pass during the Seven Years' War, when many Menorcans sold old their British passes to Genoese or Corsican mariners.⁷²⁴ The durable and long-lasting nature of the Admiralty passes, Bruce claimed, did not grant them greater authority. Instead, it meant that they might outlive the tenuous and shifting nature of British power in the Mediterranean. Although the Privy Council gave many orders to suppress the use of *passavants*, the realities of Mediterranean life made waiting for official Admiralty passes from London unrealistic.⁷²⁵ Governor Cornwallis responded from Gibraltar: "I shall pay the strictest Obedience to the order of Council as soon as Mediterranean passes are sent out." However, "in the mean time," Cornwallis wrote, "it will be absolutely necessary to continue the use of Passavants or written Passes for the vessels employed in furnishing the Garrison with Provisions, or we shall be totally without supplies."⁷²⁶

Complaints about the Mediterranean pass situation came directly from Menorca as well. One Captain Duncan complained that Johnston had refused to grant him a pass, but that it was "generally known" that Johnston had a large stash of passes which he was distributing illicitly. Duncan had heard (from gossiping with from the governor's secretary) that Johnston had even granted a pass to a Mallorcan ship. Duncan reported that when Consul Bruce arrived at Algiers he "seemed greatly astonished" at the governor's "exposing His Majesty's subjects to slavery and danger with such useless certificates as passavants." The Dey confided to Duncan that there were then eight ships in the port with British Mediterranean passes, "and not one real Retainer on board any of

⁷²⁴ Bruce to Halifax, 20 July 1764, in Bruce, *Travels*, ccvi.

⁷²⁵ See for example orders from the Privy Council sent to Gibraltar suppressing the use of passavants. 19 December 1764, GGA Admiralty Book 1, pp. 69-70.

⁷²⁶ Cornwallis to Halifax, 4 February 1765, TNA CO 91/14.

them but mostly Genoese.” Duncan’s ship, on the other hand, had “a British Captain Crew and Property furnished only with a *passavant*.” Johnston countered that the Admiralty passes he could distribute from Mahon were only for residents of the island, and accused Duncan of spreading vicious rumors at Algiers that the government of Menorca was selling Mediterranean passes to foreigners for a dollar.⁷²⁷

To quell the furor, the Privy Council took up an investigation of the pass system in the Mediterranean. They read the Dey’s complaints about *passavants* and pass fraud, which included descriptions of daily visits to the port by Spanish, Genoese, and Portuguese ships sailing under passes issued in Menorca. Even the consuls of Livorno and Venice weighed in, writing letters that were entered into evidence. The Venetian consul reported seeing “all kinds of Italian vessels having different Saint’s names under British Colours, arriving in different ports within the Mediterranean.” Consul Dick at Livorno forwarded a report from Mrs. White, the widow of the former Consul at Tripoli. She reported that a ship taken by Tripolitan cursers under a *passavant* issued by Governor Johnston had shipped directly from Genoa, never having been to Menorca, that it was “in every way equipt like a Genoese Privateer.” Of the twenty-one sailors on board, only two were Menorcan.

The *Jurats* of Menorca complained as well, accusing Johnston and his Advocate Fiscal, Juan Segui, of selling passes. They sent José de Olmedo⁷²⁸ to London to be a witness before the Privy Council. Olmedo was a shoemaker from Menorca who saw that

⁷²⁷ Gideon Duncan against Governor Johnston, 1764, TNA PC 1/7/146.

⁷²⁸ Anglicized in British reports as “Joseph Deolmedo.”

“many foreigners Greeks and others” were making a mint marketing themselves in Genoa as “Captains of the Flag.” Olmedo alleged that although he neither owned nor captained a vessel, had no knowledge of navigation, and indeed had never sailed in his life, he had received a pass by the “intersession of the Fiscal”—implying that Segui had pushed through his patently fraudulent request. With that pass, Olmedo traveled to Livorno, where he served on board the *Virgen de la Misericordia* as the *Capitano di Bandiera*. For two years Olmedo and the Genoese captain and crew traveled the Mediterranean, safely protected as “British subjects.”⁷²⁹

In a deposition taken in Menorca, Olmedo claimed that he did not know the laws pertaining to passes or British subjecthood, and that he did not have “any information nor can he from any belief relating thereto or to any matters enquired after by this Interr[ogation].” Of course the logic of obtaining a British pass to sell to a Genoese ship belies his claim. Importantly however, it seems more than likely that Olmedo, despite his protestations of innocence and testimony against the conduct of Johnston and Segui, actually harnessed the bureaucratic system behind these passes himself. While the ultimate goal was a full fledged Mediterranean pass, the process by which captains and owners went about applying for such a pass was founded on a bevy of other, less difficult to obtain (and sometimes easier to forge) paperwork such as Bills of Health and Ships’ Manifests. The warrant for the seizure of Olmedo’s ship stated that the pass was issued February 22, 1764 and that “he assured by his declaration that this Pink really belonged

⁷²⁹ “The Deposition of Joseph Deolmedo...taken before Tho. Harris Esq. One of the Masters of the High Court of Chancery,” 22 April 1767, TNA CO 174/1 ff. 81-82. Documents relating to Olmedo can be found in TNA CO 174/1. See for example ff. 75-84; ff. 159-164; 171-181; 188-189; 199; 221; 248-249.

to his majesty's subjects; his Declaration was confirmed by acts he presented legalized by the British Consul residing at Genoa & also by the Declarations of those who said were also concerned."⁷³⁰ According to the warrant, at least, Olmedo was probably well aware of the process of applying for a pass and was able to obtain the requisite paperwork and testimony in order to negotiate the system and obtain one illegally.

The Privy Council also heard from Governor Johnston, and his Advocate Fiscal, who was in charge of reading and organizing documents upon a captain's application for a Mediterranean pass. In the end, the investigation did indeed turn up quite a few abuses. Despite the (possibly valid) accusations against Johnston, it was clear that the residents of Menorca had become skilled at navigating the system for their own ends. Lorenzo Pons,⁷³¹ a native Menorcan, was found to be sailing a sixty-ton pink⁷³² that was the property of a Genoese subject, as was Lorenzo Miret⁷³³ whose crew was likewise entirely Genoese. Worse, his ship was not found in the island's registers, although they did indicate that he was using an old "lost" pass. José Alaguero⁷³⁴ was using a pass issued for a Menorcan xebec called the *Virgin de las Misericordia* to protect a Genoese Pink. Pierre Antonio Puitsgros⁷³⁵ seemed to be involved in an even broader and more

⁷³⁰ Interrogation made by Edward Clarke, agent of Colonel Johnston, 12 August 1765, TNA CO 174/1 f. 72.

⁷³¹ Anglicized as "Lawrence Pons."

⁷³² A pink was a small, flat-bottomed vessel, primarily used as a cargo ship in the Mediterranean.

⁷³³ Anglicized as "Lawrence Miret."

⁷³⁴ Anglicized as "Joseph Alaguer."

⁷³⁵ The name suggests that he was French, although the use of "Antonio" instead of "Anthony," is somewhat puzzling.

complicated pass scam. He and several others took oaths that his xebec⁷³⁶ belonged to British owners, although they had all, in fact, colluded to obtain a pass for a Spanish merchant.⁷³⁷

These abuses were possible, of course, because of the diversity of British subjects in the Mediterranean. By the 1760s, it was common for Mediterranean peoples who spoke no English to claim British subjecthood, but the movement toward this “documentary subjecthood” was uneasy and halting. In 1738, the crew of the Menorcan vessel *San Antonio de Padua* was enslaved in Algiers after a group of Spanish captives attempted to hijack the ship to make their escape.⁷³⁸ The Dey, confused about the ship’s nationality, asked Consul Charles Black “why the natives of Minorca under the pretext of being English” were granted passes. When Black ascertained that the ship indeed had a valid British pass, the Dey replied that the captain could not even speak English, compelling him to “repeat a few words in that Tongue” to make his point.⁷³⁹ In the seventeenth century, English sailors like Ned Coxere had made language, rather than paper, their passports. As we have seen, polyglot Coxere was able to evade the press gang and trade with the Spanish by pretending to be Dutch and then escape Spanish captivity with his fluent Spanish.⁷⁴⁰ Allegiance in the Mediterranean had always been flexible and those skilled at languages could use them to their advantage. By the mid-eighteenth

⁷³⁶ A xebec was a trading ship navigated with sails and oars and used almost exclusively in the Mediterranean. Young & Brisbane, *Nautical Dictionary*, 460.

⁷³⁷ “Information,” [1766?] TNA CO 174/1 ff. 71-72.

⁷³⁸ Charles Black to Newcastle, 31 March 1738, BL Egerton MS 2528 f. 91.

⁷³⁹ The register of Mediterranean passes listed Olmedo as receiving a pass on 15 November 1737. See Pinfold to Nicholas Haddock, 3 May 1738, BL Egerton MS 2528 f. 103; “Deposition of John Pons,” 1738, BL Egerton MS 2528 f. 112.

⁷⁴⁰ Edward Coxere, “Adventures by Sea by Edward Coxere,” [after 1684], Friends Library, MS VOL S 281

century, the acquisition of two Mediterranean colonies, the demands of provisioning the garrisons there—often in the midst of wars with hostile neighbors—and a delicate yet important diplomatic relationship with the North African states, meant that the rights and protections of British subjecthood must be extended to a diverse group of people. Claims to those rights could increasingly be made only with formal documents.

Mediterranean passes were not only sold or obtained with false documents, they were also forged. The 1731 *Act to prevent counterfeiting the Passes, commonly called Mediterranean Passes* alleged that “divers wicked and ill-disposed Persons,” had been forging passes, “counterfeited the Seal of the said Office and the Hands of several of the Commissioners for executing the said Office of Lord High Admiral of Great Britain” so that they could sell them “in Parts beyond the Seas, or elsewhere.” It dictated that the punishment for forging, altering, or erasing passes should be death “without Benefit of Clergy.”⁷⁴¹ Despite this, and numerous laws and injunctions about improper Mediterranean passes, inhabitants of the Mediterranean continued to forge, recycle, and sell passes. In 1768, Nicolas Traverso,⁷⁴² a native of Genoa, was caught with a Mediterranean pass he carefully had scraped clean of ink and doctored with the name of Francisco Dodero,⁷⁴³ a Gibraltarian who was notorious for widespread forgery and misuse of passes.⁷⁴⁴

⁷⁴¹ John Raithby, *The Statutes Relating to the Admiralty, Navy, Shipping, and Navigation of the United Kingdom 1225-1822* (London: G. Eyre and A. Strahan, 1823), 156.

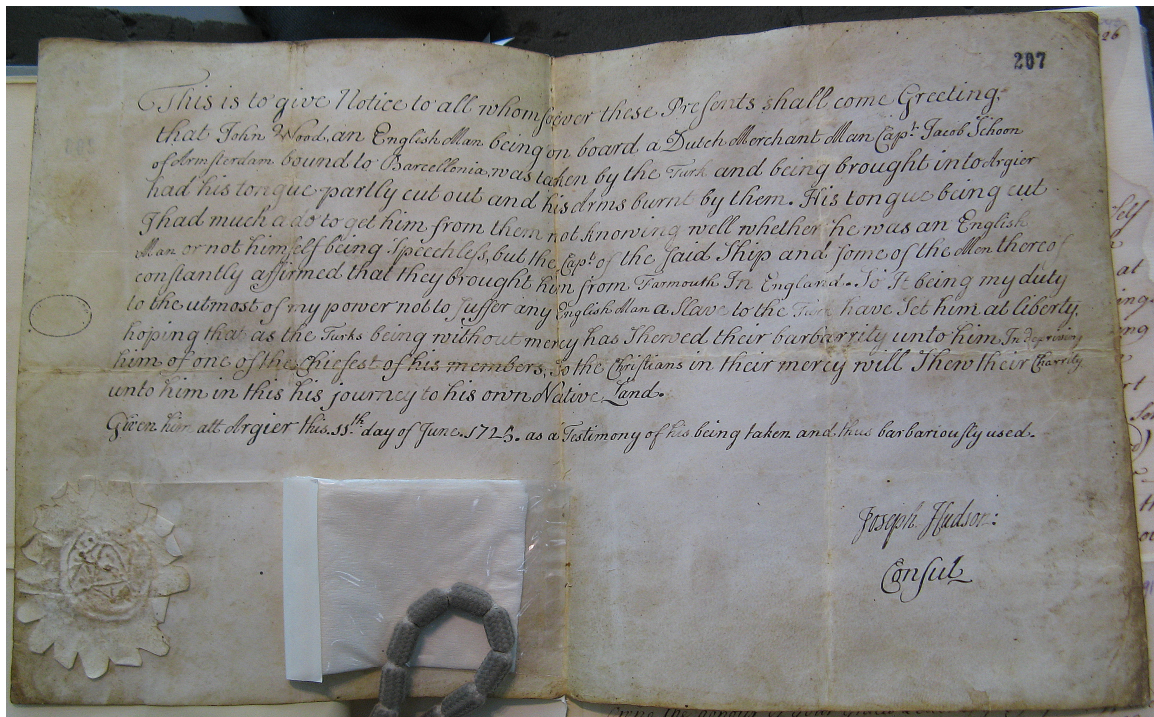
⁷⁴² Anglicized as “Nicholas Traverso.”

⁷⁴³ Anglicized as “Francis Dodero.”

⁷⁴⁴ Extract of a letter from Consul Fraser in Spry to Stephens, 23 November 1768, TNA ADM 1/383; Spry to Stephens and “Examination of Nicholas Traverso,” 23 November 1768, TNA ADM 1/383.

Other documents might be forged as well. In the summer of 1726, a young sailor came to Gibraltar aboard a merchant ship from Venice. He came before Governor Kane, and without speaking, produced a sturdy sheet of vellum with an impressive-looking seal. The document, signed “Joseph Hudson, Consul,” reported that the young man was named John Wood, that he had been aboard a Dutch merchant ship bound from Amsterdam to Barcelona, and when North African privateers seized the ship, taking him prisoner, burning his arms and cutting out his tongue. It was difficult to determine the young man’s country of origin, because the torture left him speechless, but the captain and crew of the Dutch ship avowed that they had brought him from Falmouth and that he was an Englishman. The consul set him free, and provided him with a document telling his sad tale, endorsing it with a large seal. The document asked “the Christians in their mercy” to “shew their charity unto him in this his journey to his own land.” Governor Kane, seeing immediately that the document was a forgery, called for a surgeon to examine the young man’s tongue. Before the surgeon came, however, the boy slipped away, leaving his document behind.⁷⁴⁵

⁷⁴⁵ Richard Kane to Charles de la Faye, 4 July 1726, TNA CO 91/4 ff. 204-207.



Forged Letter of Introduction, “Joseph Hudson,” 1725

Included in a letter from Lieutenant-Governor of Gibraltar Richard Kane to Secretary of State Charles de la Faye, 4 July 1726, TNA CO 91/4 f. 208.

There is no question that the document is a forgery. The consul at Algiers was named Charles Hudson, not Joseph, which Kane well knew because of their frequent correspondence about matters of trade and Mediterranean passes. Given the multitude of nationalities claiming British subjecthood, in many ways John Wood’s story seems strangely out of sync with the realities of British subjecthood in the Mediterranean. Language (and by extension national origin or cultural heritage) was no longer the mark of a British subject in the Mediterranean—where British subjects might speak Italian, Ladino, Catalan, Spanish or Portuguese. Subjecthood was not based on a shared identity

or common ancestry, but rather on passes, letters of marque, and other certificates that allowed certain people to aid in the upkeep and protection of British naval interests and commercial trade in the Mediterranean. Why then did the supposed John Wood fabricate the story about his missing tongue?

Certainly language could no longer define the “British subject” in the eighteenth-century British Mediterranean and culture or place of birth did not limit access to subjecthood. Most of the day-to-day governing in Menorca took place in Spanish and Catalan. Governor Kane’s so-called “government by the pen”⁷⁴⁶ consisted of decrees written in clumsy Spanish, and translated into Catalan for the members of local government. In Gibraltar, although English brought the diverse community together as a lingua franca, it was in no way a requisite for being an “inhabitant” and therefore privy to many of the rights of British subjecthood.

Despite this, speech and particularly testimony, continued to be a vital element in the process of imbuing documents with power and ascertaining their authenticity. All captains swore oaths pledging allegiance to the Crown, sailors were required to answer questions about their national origins in prize court to be checked against the ship’s papers and the statements of other mariners. In London, debates in parliament, counsel between king and ministers, and the pronouncements of legal verdicts were not written, but in fact spoken,⁷⁴⁷ leaving it to scribes and secretaries to transmit royal and parliamentary authority to the far corners of the empire. The power of the spoken word

⁷⁴⁶ See Chapter 5.

⁷⁴⁷ Harold Love, *The Culture and Commerce of Texts: Scribal Publication in Seventeenth-Century England* (Amherst: University of Massachusetts Press, 1998), 159-174.

and testimony was so important that José de Olmedo came all the way to London in order to testify before the Privy Council in a language they didn't understand. Perhaps then, "John Wood," the presumptive Venetian sailor, feared that his testimony might undermine the false claims so carefully laid out on paper and authenticated with signatures and seals.

In the end, however, and certainly by the 1760s, testimony of was little help without paperwork to validate it. Gibraltarian Antonio Mollido,⁷⁴⁸ and his schooner, *Syren*, for example, were forced to stay at the Spanish port of Mers el-Kébir due to bad weather. While stuck in port, their Mediterranean pass expired, and Mollido, his crew, and passengers were arrested. After a flurry of communication between British and Spanish authorities, their freedom was procured. They set sail on board a Spanish ship that was soon captured by a Moroccan cruiser. Without their pass and unable to prove that they were inhabitants of Gibraltar, and not Spanish subjects, Mollido and his crew spent years in slavery in Morocco. Only a steady stream of letters from the British authorities freed them.⁷⁴⁹ As British subjecthood extended to more and more people who were neither born in Britain nor her white settler colonies, language might have become a less important marker of subjecthood, but paperwork became indispensable.

CONCLUSIONS

In a section of *La Méditerranée* entitled "Distance: the first enemy," Braudel describes a sixteenth-century Mediterranean world in which frustrated letter-writers

⁷⁴⁸ More likely "Molido," a common Spanish name.

⁷⁴⁹ Cornwallis to Egremont, 9 February 1763, TNA CO 91/14.

complained bitterly about delays in the mail.⁷⁵⁰ Two hundred years later little had changed. The sea is fickle. Unfavorable winds and storms, pirate or privateer attacks, warfare and blockades could all delay the mail, hindering communication with far-off England and even with the nearest ports. Letters held together an invisible and sometimes tenuous web of British authority in the Mediterranean. Letters between consuls, merchants, colonial governors, and imperial authorities bound together a fluid and shifting British Mediterranean. It was a maritime domain created and recreated through regular correspondence, and by bits of paper and parchment that circulated the sea aboard packet ships, in the hands of consuls and messengers, and in the form of letters of marque and Mediterranean passes. It was not just the information that these documents contained, but indeed the objects themselves that lay at the heart of British authority, and conversely, threats to that authority. As the empire expanded its sovereignty across the seas, it became increasingly dependent on documents and the reliable circulation of those documents to establish, exercise, and manage that sovereignty.

The British colonies in North America were part of a territorial empire that was filled with British colonists. But the British Empire in the Mediterranean was a loose and mobile world created by a few people born in the British isles, moving flotillas of Royal Navy vessels, a dispersed network of British officials, and populated by linguistically and culturally diverse people. The movement toward “documentary subjecthood” allowed a wider range of people to claim the rights and protections of British subjecthood, both legally and illegally. Bits of parchment and paper, ink and wax, circulating the sea,

⁷⁵⁰ Braudel, *The Mediterranean*, 355.

became vital elements in maintaining British sovereignty in the Mediterranean. Conversely, these documents were also tools that a diverse array of inhabitants could use to navigate a perilous world.

Chapter 5. Navigating Authority, Negotiating Subjecthood

In 1773, Anthony Fábrigas, an inhabitant of Menorca, brought a case against Lieutenant Governor John Mostyn in the Court of Common Pleas in London. He charged that the Governor had imprisoned and deported him without a proper trial. Governor Mostyn argued that the “ancient laws of Minorca” justified his actions, but Fábrigas maintained that he was entitled to the full protection of *British* laws because he was a “free-born subject of England.”⁷⁵¹ The court found that although Menorcans lived under a legal system that had been developed under “the usages and customs of Spain,” and Queen Anne had affirmed the protection of their traditional *fueros*, Menorcans were still entitled to sue for damages in English courts, and to seek the wider protection of English law.⁷⁵²

Although Governor Mostyn had justified his treatment of Fábrigas under the “ancient laws of Minorca,” in other cases, Menorcans themselves invoked these “ancient laws” to protect their rights. Almost thirty years earlier, in 1745, Admiral Medley needed seamen to sail small vessels that would supply the British fleet stationed at Mahon. Finding no volunteers, Governor Wynyard authorized the admiral to press Menorcan men into British Navy service. However, according to their ancient *fueros*, Menorcans were immune from impressment. Wynyard conceded that while impressment had been “Seldom practiced here, and possibly may make some little Noyse amongst the people,” it was fair that Menorcans “share the same fate with the rest of His Majesty’s Subjects in

⁷⁵¹ T.B. Howell, *A Complete Collection of State Trials*, vol. 20 (London: T.C. Hansard, 1816), 82-238.

⁷⁵² Howell, *State Trials*, vol. 20, 232-36.

all Other parts of His Dominions in cases of emergency.”⁷⁵³ Rather than simply stirring “some little Noyse,” however, the activities of the British press gangs caused full-fledged riots on the island. The *Universitat* of Mahon complained in autumn 1745, that “a great number of Seamen from His majestys ships landed at Mahon armed with Clubs and Cutlasses, pressed all persons and Committed several other great Outrages.” Again in February, about 200 Sailors “landed from His majestys ships at mahon pressing all Sorts of People, comitting many acts of Barbarity.”⁷⁵⁴ Writing in the early twentieth century, Menorcan historian Francisco Hernández Sanz described how angry Menorcans fought the press gangs during what would be remembered as “the year of the stonings.”⁷⁵⁵ According to Hernández, Menorcan peasants all over the island,

In defense of their freedom... armed themselves with sticks and poles; There were fatal encounters for English: in San Clemente some sailors were scattered over the field stoned to death; in San Felipe women with stones too, forced back a boat carrying sailors attempting to land on the coast of their town.⁷⁵⁶

Although as in Fábrigas’ suit, many memorials and petitions would point to Menorcans’ rights as British subjects, a petition to the Privy Council about the 1745 press riots argued instead that *Menorcan* rights should be respected because of the unique “Privileges of the

⁷⁵³ Wynyard to Newcastle, 25 January 1745/6, The National Archives (hereafter TNA) Colonial Office (hereafter CO) 174/2 f. 28.

⁷⁵⁴ Medley to Corbet, 28 April 1747, TNA Admiralty (hereafter ADM) 1/382.

⁷⁵⁵ “s’ any de sas pedradas,.” See Francisco Hernández Sanz, *Compéndio de geografía é historia de la isla de Menorca* (Mahón, 1908), 311-12.

⁷⁵⁶ Hernández, *Compéndio*, 311-12: “En defensa de su libertad se armaron los paisanos de palos y de estacas; hubo encuentros fatales para los ingleses: en San Clemente quedaron tendidos en el campo algunos marineros muertos á pedradas; en San Felipe las mujeres, á pedradas también, obligaron á volver á bordo á un bote cargado de marinería que intentaba un desembarco en la costa de aquel pueblo.”

said Island”—the ancient *fueros* that Queen Anne had promised to protect in 1712.⁷⁵⁷

Legal historian Lauren Benton points out that European empires were often characterized by “layered sovereignty” and “legal pluralism”—a phenomenon that was pervasive in the Mediterranean colonies. Benton argues that the “layered quality of imperial rule,” (which, in the case of Menorca, inelegantly integrated aspects of British law, military administration and traditional local government) “spawned contests over the prerogatives of officials, the definition and rights of subjects, and the articulation of colonial administration with the law of indigenous or conquered people.”⁷⁵⁸ These spheres of law and power were not only overlapping and ill defined, but often contradictory. As I discussed in Chapter 2, the Treaty of Utrecht protected the rights of Catholics in Menorca, and by extension the traditional ecclesiastical government. Simultaneously, these religious protections were antithetical to British law. Further, the enduring civil government came into conflict with the new system of military authority—a system of rule which itself was often incompatible with British common law and the established rights of British subjects. These complex contradictions, as well as silence from London on the proper parameters of military power or the role of civil government, created contestations between British governors and local religious and civil authorities. As one commenter on the Fábrigas case put it:

⁷⁵⁷ “Minorca: Petition of Juan Mir relating to the behaviour of several British Sailors In Impressing the Inhabitants to Serve on Board the Fleet,” 22 August 1746, TNA Privy Council (hereafter PC) 2/100 f. 16.

⁷⁵⁸ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge; New York: Cambridge University Press, 2010), 3. See also *Law and Colonial Cultures Legal Regimes in World History, 1400-1900* (Cambridge; New York: Cambridge University Press, 2002) and Lauren Benton and Richard Ross, *Legal Pluralism and Empires, 1500-1850* (New York and London: New York University Press, 2013).

The fact most undoubtedly is, that Minorca, a conquered country, preserves its ancient (the Spanish) laws, till the conqueror chuses to give them others; and therefore as England has not given them others, it is true the Spanish laws do prevail in Minorca, both in civil and criminal matters, among themselves: but it is equally true that they have the protection of the English laws against their governor, who cannot be amenable to their local laws, and that however despotically a Spanish governor may formerly have acted, it cannot be the law of Spain, or of any country (because it is contrary to natural justice) that a man should be condemned and punished without either trial or hearing.⁷⁵⁹

Throughout the eighteenth century, the civilian populations of both Gibraltar and Menorca would continue to have uneasy relationships with the British military authorities that, despite layered sovereignties, so often had the final word in quotidian decisions both big and small.

Although Gibraltar had no traditional civil or religious institutions, there too the extent of military prerogative in civilian life and law was unclear and contested. In order to navigate these muddy waters of unclear jurisdiction, layered sovereignty, and legal pluralism, Menorcans and Gibraltarians began to negotiate functional definitions of subjecthood within local civil courts, with the Governor, and with the Crown. They expressed their rights, privileges, and obligations in multidimensional ways and took myriad and sometimes conflicting approaches to protecting their rights or seeking justice.

LEGAL PLURALISM IN MENORCA AND GIBRALTAR

In 1718, General George Carpenter, Governor of Menorca, sent a memorial to the king. “It is found from daily Experience,” he wrote, “that it is necessary some new model of Government should be formed for that Island, whereby the Commander in

⁷⁵⁹ Howell, *State Trials*, vol. 20, 86.

Chief may know how to act.”⁷⁶⁰ This plea would be repeated by his successors throughout British rule in Menorca. From the early eighteenth century, both colonies were treated more as strategic military garrisons than as overseas territories with civilian populations. Governors of Gibraltar and Menorca (and their Lieutenant Governors who did almost all of the actual governing) were army officers. How to govern the diverse and often puzzling civilian populations outside their garrisons posed a challenge—especially because the ministry gave them few instructions about the extent of their authority over civilians and civil administration.

In Menorca, the existence of deeply entrenched and enduring civil and ecclesiastical legal and governmental bodies created constant negotiations between British and Menorcan authorities over the extent and limits of the Governor’s power. To make things more difficult still, for the first forty years of British rule in Menorca, governors received no specific instructions about the parameters of gubernatorial authority. When these instructions finally did come, they came too late—just three years before England would lose the island to the French for the duration of the Seven Years’ War. When the British regained control of the island after the war, the carefully laid plans for civil regulations were generally abandoned. In Gibraltar, the absence of significant territory outside the fortified garrison, and the lack of any preexistent local government or courts, meant that the formation of a civil government was slow and halting—despite Gibraltar’s rapidly expanding and diverse civilian population.

As Crown Colonies, the monarch ruled these territories through the Privy Council

⁷⁶⁰ Memorial of Governor Carpenter, 1718, TNA CO 389/54.

with the close advice of the Secretary of State for the Southern Department throughout the eighteenth century. Instructions to governors were expressed as Orders in Council, or relayed through letters from the Secretary of State.⁷⁶¹ Further, the Board of Trade—a special committee of the Privy Council responsible for the administration of overseas colonies—provided advice and helped create basic colonial policy. The distance that letters had to travel, as discussed in the previous chapter, as well as the general lack of interest within the ministry in administering the Mediterranean garrisons as *colonies*, meant that governors often had wide latitude in their dealings with the civilian populations, over whom they often seemed to become de facto despots.

However, during the years of British rule, civilians vigorously used diverse legal arenas to register protest or seek justice, employing diverse legal arguments to assert and protect their rights. In Menorca, where most inhabitants' status as "British Subjects" was solidly enshrined in British law, the islanders were often vociferous in proclaiming their rights as his or her "majesty's natural subjects." In Gibraltar—where the Governor had tight control of the town and where the civilian population was, at first, itinerant and almost entirely foreign-born—the rhetoric of subjecthood was less ostentatious, but still carefully cultivated and shrewdly negotiated.

Menorca's "Ancient Rights and Privileges" and Civil Government

Menorca's *fueros*—often translated into English as "rights and privileges"—would be a constant site of conflict between British and Menorcan authorities. These

⁷⁶¹ Stephen Constantine, *Community and Identity: The Making of Modern Gibraltar since 1704* (Manchester: Manchester University Press, 2009), 69.

fueros were royal privileges and concessions to the islanders dating back to the tenth century when the Moors had conquered the island. They had continued to amass through the years of Spanish rule. Between 1231, when Aragon conquered Menorca (ending the rule of the Caliphate of Cordoba), and the Treaty of Utrecht in 1713, Menorcan privileges had developed into a massive and complex legal code.⁷⁶² The *fueros* gave Menorcans a series of concessions, including the right of the local government to send representatives—known as syndics—to air their grievances to the King without the approval of the Governor, and also exempted the *Jurats*—local magistrates—from prosecution during their term of service. The *fueros* also exempted Menorcans from corporal punishment, and from impressment into military service. Most important of all the *fueros* was: “No order to be admissible or obeyed in Menorca which flouts any of the *fueros* of the island.”⁷⁶³ Although Philip V had pushed for an outright recognition of Menorcan *fueros* during the Utrecht negotiations, the final version of the treaty only promised that Britain would protect Menorcan’s “bienes y honores”—their “estates and honors.”⁷⁶⁴ Did this include Menorcan *fueros*? If so, British sovereignty over the island

⁷⁶² Menorcan *fueros* are codified in the *Llibre Vermell de Ciutadella*,” (Red Book of Ciutadella) named for its reddish leather binding. It is a compilation of documents written between the thirteenth and eighteenth centuries that outline the rights, privileges and concessions granted to Menorcans by the succession of kings and monarchies that ruled them. Within the *Llibre Vermell*, six documents date to the period between 1231 and 1285 when Menorca was an independent Islamic state, tributary to Aragon, three documents are from the first period of the direct rule by Kings of Aragon and Counts of Barcelona, 117 belong to the period of rule by the Kings of Majorca, 317 are from the second rule of the Kings of Aragon, 105 are from Hapsburg rule and the final document is from the reign of the Bourbon king Philip V and is written in 1710. The book is kept in the City Hall of Ciutadella (Ayuntamiento de Ciutadella). See Antonio María Aragó, and Rafael Conde and Delgado de Molina, *El Llibre Vermell de Ciutadella: catàleg dels seus documents*. (Barcelona: Banca Catalana, 1977).

⁷⁶³ Donaldson, *Menorca*, 127.

⁷⁶⁴ Peace and Friendship Treaty of Utrecht between Spain and Great Britain, Article XI. George Chalmers, *A Collection of Treaties between Great Britain and Other Powers* (London : J. Stockdale, 1790).

would be constrained by a 300-page tome written in medieval Catalan and composed of 550 documents and laws dating back to the thirteenth century—a possibility that most British governors found difficult to accept.⁷⁶⁵ The unclear language of the Treaty of Utrecht, as well as promises by Stanhope and Queen Anne to protect Menorcan “rights and privileges,” would, over the following century of episodic British rule, haunt any arguments about the extent of British sovereignty and jurisdiction over Menorca and its inhabitants.

The re-conquest of Menorca by the French during the Seven Years’ War and its return to Britain in 1763, would provide an opportunity for some to argue that the provisions of the Treaty of Utrecht were null and void. Therefore Britain could shake the chains of its diplomatic obligation to Spain and impose unfettered British rule over the island. When Lieutenant-Governor Johnston arrived on the Island in 1763, he raised the ire of Menorcans when, in a speech to the *Jurats*, he announced that “the Rights & Privileges ...given by the 11th article of the Treaty of Utrecht cease not being provided for by the Treaty of Fontainebleau.”⁷⁶⁶ After furious complaints from the *Jurats*, the

⁷⁶⁵ Aragó, *El Llibre Vermell de Ciutadella*. The *Llibre Vermell*, itself was almost lost when a Turkish fleet besieged Ciutadella in 1588 and made off with many of the public and private archives in the city. The book was taken to Constantinople as part of the spoils of war, where it was recovered by freed Menorcan captive Esperanza Alsina (Jerónima Alzina). She demanded a reward, and was given 100 gold doubloons for its return. See Miguel Angel Casanovas, *Història de les Illes Balears Vol. 18* (Palma de Mallorca: Moll, 2008).

⁷⁶⁶ “Papers Relating to Minorca,” TNA CO 174/1 f. 58.

ministry made it clear that the protections of the Treaty of Utrecht should remain in place.⁷⁶⁷

Almost as precious to Menorcans as their *fueros* was their civil government—the *Universitats*—representative councils that had been instituted in the early fourteenth century. The island was divided into four sections each of which had a *Universitat* made up of magistrates or *Jurats* who were chosen at random each year from a list of qualified candidates.⁷⁶⁸ There was also a *Universitat General*, which was made up of the *Universitat* of Ciutadella and delegates from the other *Universitats*.⁷⁶⁹

With its Catholic population, ancient civil and ecclesiastical government, and religious protections provided by the Treaty of Utrecht, Menorca was, in some ways, an early incarnation of the religiously and culturally plural British Empire that would emerge after the Seven Years' War. At the time, however, the challenges posed by the possession of Menorca were relatively novel. In North America, for example, colonists had developed laws and institutions similar to those in Britain and claimed many of the same legal rights as Britons at home. In Menorca, the existing civil and ecclesiastical government, as well as the vague protections provided under the Treaty of Utrecht, meant that British governors were faced with an unfamiliar system, and locals who were vehemently protective of their traditional way of life. Reluctance by central British

⁷⁶⁷ Johnston declaration confirming “the Rights Customs and privileges of the Island of Minorca are Confirmed by His present Britannick Majesty as they were practices ‘til the year 1756,” 10 February 1764, TNA CO 174/1, f. 90.

⁷⁶⁸ Their names were pulled out of a box by a boy under seven.

⁷⁶⁹ Constitution of the Civil Ecclesiastical and economical government of Minorca, TNA CO 174/1 ff. 232-234.

authorities to define the parameters of British power made the situation all the more difficult and confusing for colonial governors and Menorcans alike.

Civil Government in Gibraltar

With the departure of the Spanish government and civilians in 1704, and the official cession of the Rock to the British in 1713, Gibraltar fell solely under the rule of a British military governor, answerable only to the Crown and ministers in London.⁷⁷⁰ In fact, a proposal for civilian legal regulation did not come until 1720, and the Rock would not develop any autonomous civil government until 1817. Gibraltar's status as a garrison, the lack of an enduring civil society or government, and the absence of any populated hinterland (as there was in Menorca) meant that the road to civil government was long, bumpy, and would not come to full fruition until the nineteenth century. The fact that few of the new civilian inhabitants were, in any strict legal sense, British subjects, further complicated the question of civil jurisdiction. Were inhabitants to be treated as foreign merchants and referred to their consuls to mediate disputes? What protections, if any, were they entitled to? And how might they defend their rights against the will of the Lieutenant-Governor—the Garrison's Commander-in-Chief?

Because the subject-status of the new inhabitants of Gibraltar was, at best, confusing, the first rigorous arguments for civil law took shape in discussions around the adjudication of merchant disputes. In the first decade of British rule, it was customary to

⁷⁷⁰ Constantine, *Community and Identity*, 68-69.

refer such disputes to the appropriate consul.⁷⁷¹ However, in 1718, a quarrel between the Genoese consul and a British merchant lay bare the shortcomings of this scheme. Genoese consul Giambattista Sturla and British merchant William Hayles had an argument about the payments due from a joint investment in the privateering vessel *Europa*.⁷⁷² To settle the quarrel, the governor asked John Beaver, a merchant, notary public, and only British legal practitioner on the Rock, to act as Judge Advocate.⁷⁷³ Beaver adjudicated the case, ordering Sturla to pay a sum that Hayles found insufficient. When Hayles vigorously objected, Beaver had him confined for contempt of court. Although Hayles appealed to the Privy Council in London in 1721, his appeal was dismissed when the council found that Judge Beaver had acted “justly and unexceptionably.”⁷⁷⁴

The controversy brought the issue of civil government in Gibraltar to the fore. Early hopes that Gibraltar might become a lively trading center, as well as the need to provision the garrison by sea, made the creation of a Court Merchant (a merchant court) a pressing issue. Judge Beaver wrote to the Board of Trade complaining about the lack of any formal civil justice system in Gibraltar. He argued that proper trade regulations and civil government in Gibraltar would attract “Numbers of His Majesty’s Subjects,” complaining that “as it at present stands, the Advantages of its being a free Port are

⁷⁷¹ Tito Benady, “The Complaint of the Chief Justice of Gibraltar,” *Gibraltar Heritage Journal* 4 (1997): 18.

⁷⁷² Starkey, *British Privateering Enterprise in the Eighteenth Century*, 113.

⁷⁷³ “Order referring to Committee the petition of John Beaver, Judge Advocate of Gibraltar, to be continued as a principal member of the judiciary if any change is made in civil court there,” 28 December 1721, TNA PC 1/3/99; Benady, “The Complaint,” 19.

⁷⁷⁴ “Gibraltar: Committee Report on the appeale of Wm Hales,” 11 August 1721, TNA PC 2/87 p. 276. See also TNA PC 2/87 pp. 247, 285.

chiefly reap'd by Foreigners, who, besides the Garrison, are almost the only Inhabitants." Beaver noted that, "The greatest misfortune to this place is the Want of a well-constituted Civil Power, from which Merchants and other Dealers might have speedy Relief against all unfair Practices, and which might summarily decide all controverted Cases."⁷⁷⁵

Hayles also complained to the Board of Trade about the lack of civil government in Gibraltar. In 1720, he organized a petition for the establishment of a civil government in Gibraltar from leading merchants in the City of London including Sir John Eyles and Sir Peter Delmè.⁷⁷⁶ In the petition to the Board of Trade, the merchants complained that Sturla and other traders residing in Gibraltar owed them \$25,000, which was "all the estate your petitioners have in the world." They protested that Gibraltar had "no Court of judicature where your petitioners have process at law against the said persons," and that although they had "often applied themselves to His Majesty's Governor," for relief, they had no success. The governor claimed that he had no authority to force the payment of merchants' debts.⁷⁷⁷

In 1720, the Privy Council ordered that a commission be created "for Establishing a Court of Judicature for Determining of Private Causes, between Party & Party within

⁷⁷⁵ John Beaver, *A letter to the Lords Commissioners for Trade and Plantations, concerning the advantage of Gibraltar to the trade of Great-Britain. With some proposals to render that place more useful. By a Turkey merchant. To which is prefix'd, a chart of the Mediterranean Sea* (London: J. Roberts 1720), 8-11.

⁷⁷⁶ "The Humble Petition of the Underwritten Merchants and Traders to the City & Garrison of Gibraltar," TNA PC 1/3/96; "Order referring to the Committee the Petition of the Merchants trading to Gibraltar for Settling a Civill Court of Judiscature there," 25 November 1721, TNA PC 1/3/96; "Gibraltar: Sr. John Eyles &cets for Establishing a Court of Civil Judicature there..." 25 November 1721, TNA PC 2/87 f. 391.

⁷⁷⁷ "Petition of William Hayles, William Jack and John Gerardo Duque, merchants from Gibraltar, for a for a civil Court of Justice to be established there," 12 July 1720, TNA PC 1/4/80.

the Town and Territory of Gibraltar.”⁷⁷⁸ By November they had established Gibraltar’s First Charter of Justice. It established a Court of Common Pleas for settling civil actions, especially concerning matters of concern to Merchants—contracts and debts. The court would be made up of the Judge Advocate, and two merchants appointed by the judge. To this court, the Privy Council gave “full power and authority to hold plea of and to hear and determine in a summary way all pleas of debt account or other contracts trespasses and all manner of other personal pleas whatsoever.”⁷⁷⁹ Even with this new court, the ambivalent boundaries of civil law and military jurisdiction persisted—especially because The Judge Advocate was always a garrison official.⁷⁸⁰ Moreover, the right of appeal was to the governor, thus inextricably weaving military authority into the structure of civil justice.

Although this charter gave the Judge Advocate the role of adjudicating cases concerning bankruptcies, wills, and debts, the Rock still lacked a civilian criminal court. The only criminal cases tried were military court-martials.⁷⁸¹ As a result, even “the greatest and most enormous Crimes, committed by the Civil Inhabitants,” went unpunished except by “turning the Delinquents out of Town.”⁷⁸² The lack of a criminal court, and the continuing influence of military power in civil cases, prompted renewed complaints from merchants and inhabitants. A pamphlet entitled *Gibraltar a Bulwark to*

⁷⁷⁸ “Gibraltar: Order for passing a commission to Establish of a Court of Jurisdiction there,” 20 September 1720, TNA PC 2/87 p. 5; 1720 Charter of Justice, 4 November 1720, Gibraltar Government Archives (hereafter GGA), “Charters of Justice Charter of Justice.”

⁷⁷⁹ 1720 Charter of Justice, GGA “Charters of Justice.”

⁷⁸⁰ Hannah Weiss Muller, “The Garrison Revisited: Gibraltar in the Eighteenth Century,” *The Journal of Imperial and Commonwealth History* 41, no. 3 (2013): 353–76.

⁷⁸¹ “Civil Court, Register of Protests 1743–47,” GGA.

⁷⁸² William Herbert to Holderness, 1 January 1753, TNA CO 91/11.

Great Britain argued that Gibraltar could be an important center for trade with North Africa, but that trade “cannot flourish under a Military Power; for it is of such a Nature, that it [cannot] thrive without the cherishing Warmth of a Civil Government...The Merchant who does Business at Gibraltar, assuredly suffers by the want of a regular Court of Justice there.”⁷⁸³ It also suggested a court be established to administer the oath of allegiance, seize goods, and imprison inhabitants “in Cases of Contumacy, or ill Behaviour.” While the Governor should “aid and assist this Officer on all lawful Occasions,” the pamphlet argued, he should not “interfere in any Case whatsoever except where the Military Matters make it necessary, and then only join Himself, or any other sufficient Land Officer, to be assistant in the Decision of the Controversy.”⁷⁸⁴

A further petition from a group of merchants in August 1721 objected that they were “discouraged to continue the trade for want of a Form of Civil Government established there being at present under that of a military one whereby your Petitioners are not secure in their properties.” The merchants complained that although “your Maj was pleased to grant ye Royall Letter patents for that purpose it is yet not withstanding in the hands of military magistrates.” Further, “the settling of a Civill Judicature there will Contribute very much to the advantage of Trade in Generall and to the entire Satisfaction

⁷⁸³ *Gibraltar a bulwark of Great Britain. In a letter to a Member of Parliament. Containing some considerations on the importance of that place, in respect to our trade in general; but particularly with regard to Barbary, Spain, France, &c. With proposals for erecting a Civil Magistracy there, and for lessening the annual expence of the Crown in maintaining that garrison. By a gentleman of the navy* (London: J. Peele and N. Blandford, 1725), 40.

⁷⁸⁴ *Gibraltar a bulwark*, 35.

of all your Majetys Subjects.”⁷⁸⁵

In 1722 a committee of the Privy Council formed to address the continuing complaints about the judiciary and the lack of civil government in Gibraltar. They considered these complaints, including one from Hayles who claimed that while the Spanish, French, Genoese, and Dutch were afforded their own Consul and lawyer, “at least two hundred of His majestys Subjects Inhabiting in Gibraltar” suffered without a proper civil court, and were “more ill treated than Strangers.” Indeed the paucity of British subjects among the inhabitants in this early period was a cause of concern in the debate around how to establish any form of civil government. If British subjects were such a small percentage of the population, would it make sense to draft a constitution based on English common law? The committee concluded that the situation warranted further consideration. However, as an abstract of the proceedings compiled in 1730 dryly phrased it, the committee “agreed to meet again on the monday following to consider further thereof But it does not appear that their Lordships met any more upon it til Six years afterwards.”⁷⁸⁶

The issue of civil government in Gibraltar languished until after the 1727 siege. In 1728 the Board of Trade met several times to discuss proposals for a civilian constitution.⁷⁸⁷ The resulting draft charter of 1728 was based on the charter of English

⁷⁸⁵ “The Humble Petition of the Underwritten Merchants and Traders to the City & Garrison of Gibraltar,” 22 August 1721, TNA PC 1/3/96. See also “Abstract of all the Proceedings for Establishing a Form of Civil Government at Gibraltar,” TNA PC 1/4/109.

⁷⁸⁶ “Abstract of the proceedings for establishing a form of Civil Government at Gibraltar,” 4 December 1722, TNA PC 1/4/109.

⁷⁸⁷ “Journal, December 1728: Journal Book E.E,” in *Journals of the Board of Trade and Plantations*, Volume 5, January 1723 - December 1728, ed. K H Ledward (London: HMSO, 1928), 440-447.

Tangier, but limited the Corporation to Protestants and did not exempt military personnel from the jurisdiction of the civilian courts. The Freemen of the City (the British Protestant merchants in Gibraltar) were to elect a mayor, six aldermen, and a common council of twelve for life. In this scheme, the governor and the military would not have the right to arrest civilians. Instead, all the members of the Corporation would be justices of the peace and five of them would form a court to hear serious crimes. Five justices would also meet weekly to hear civil complaints. Rather than the governor, the right of appeal would go directly to the Privy Council.⁷⁸⁸ Despite this and several other proposals that would more clearly disentangle civil and military authority, nothing came of the plans. The governor and his secretary personally received all money from duties, licenses, and rents on the Rock, and were not prepared to give away the lucrative activity of personally managing the civilian and commercial affairs of Gibraltar.⁷⁸⁹

Jurisdiction within the broader imperial legal system also became an issue in this period. In 1732, merchant and interpreter Solomon Namias was killed while on a diplomatic mission to Morocco. Sultan Mawlay ‘Abd Alla found out Namias was a Jew and not an Englishman as he had assumed, took offence at his demeanor, and ordered him to be burnt alive.⁷⁹⁰ After Namias’ death, his London trading partners applied to the

⁷⁸⁸ “Report of the Attorney and Solicitor General on a draft charter to establish a Civil Government in Gibraltar,” 7 August 1729, TNA PC 1/4/103.

⁷⁸⁹ Benady, “The Complaint,” 19.

⁷⁹⁰ Consul Sollicofre to Newcastle, 7 November 1732, TNA SP 71/17 f. 272; Thomas Pellow and Robert Brown, *The Adventures of Thomas Pellow, of Penryn, Mariner: Three and Twenty Years in Captivity Among the Moors* (London: T. Fisher Unwin, 1890), 216. Namias’ widow Rachel was granted a pension for 100 in 1735 by the British government. See “Petition of Widow Namias whose Husband was burn’d at Mequiness,” TNA SP71/21 f. 29; “Warrants for the Payment of Money: 1735, July-September,” in

Court Merchant in Gibraltar for the release of his goods to cover his debts. The court ordered it should be done. However, London merchant David Lopez Pereira, another one of Namias' associates, applied instead to the Prerogative Court of Canterbury—the ecclesiastical court that dealt with wills and estates in England. Lopez asked to use the money Namias owed him against his debts to the other merchants. The court agreed. With two conflicting orders, Solicitor General Dudley Ryder was called on to establish which court had superior jurisdiction. He found that when the English took Gibraltar, the (presumably Spanish) “Civill Law prevailed there” and that the establishment of the new court “was not intended to Introduce a new System of Laws.” Therefore, Ryder ruled, the Prerogative Court of Canterbury had no jurisdiction in the case. Ryder claimed that the outcome of Lopez's case, “whether in Gibraltar *or other parts of Spain* [emphasis mine], or in Barbary or in any other parts of the world” depended on “the Laws of these respective Countries who may grant administration of their own to the persons or effects...within their respective Jurisdictions by Laws which we are strangers to.”⁷⁹¹ Because the charter for a civil court in Gibraltar had not laid out a clear set of laws, or explicitly extended the laws of England to Gibraltar, the Rock was, according to Ryder, not subject to the laws of England, but instead to Spanish civil law. It should, for all legal purposes, he seemed to imply, be considered a different country with “Laws we are strangers to.” Of course Ryder's claim that the Spanish civil law should continue to prevail was highly problematic. If English civil law did not extend to Gibraltar, and the

Calendar of Treasury Books and Papers, Volume 3, 1735-1738, ed. William A Shaw (London: HMSO, 1900), 122-134.

⁷⁹¹ Dudley Ryder, “Some observations on the role of determining civil causes at Gibraltar,” 17 May 1736, BL Lansdowne MS 558/3 ff. 24-28.

Rock had no enduring civil laws or government, the governor was left with extraordinary power over the lives and fortunes of the civilians.

Another attempt to establish a functioning civil government in Gibraltar came in 1740. The second Charter of Justice would bring English law to Gibraltar and set up a system of civil and criminal courts to be administered by a Chief Judge and four merchants.⁷⁹² Unfortunately, the appointed judge, Robert Robinson, never took his post, and the plan languished. When, after four years, Robinson was still living comfortably in London, the Treasury finally put a stop to his £500 a year salary. Although an outraged Robinson published an implausible defense of his actions, the new court was never realized.⁷⁹³

When Governor Bland took office in 1749, he bemoaned Gibraltar's lack of civil magistrates and complained about the overwhelming civil and judicial responsibilities that fell to the governor. "The Field which the Governor of Gibraltar has to Range in," Bland wrote, "is rather too extensive for any one Man to Improve and Cultivate in the manner it ought to be." This broad array of responsibilities meant that while the governor might be "Employ'd in the Care of one part, some of the others will Run into Disorder and Confusion, and instead of yielding what should be profitable, produce nothing but Bryers and Thorns."⁷⁹⁴ Bland also complained that there were no civil magistrates to police the town, no civil court to prosecute crimes, no magistrate of health, "nor has the

⁷⁹² "Report of a sub-committee appointed to consider papers concerning the establishment of a form of civil Government in Gibraltar," 9 August 1739, TNA PC 1/5/51.

⁷⁹³ Robert Robinson, *The Case of the Chief Justice of Gibraltar, Truly and Impartially Stated; in a Letter, Address'd by Him, to the Right Honorable, Arthur Onslow* (London: Owen, 1749).

⁷⁹⁴ Bland, *An Account of Lieutenant General Bland's Conduct*, 1 March 1750/1, Article 10, GGA, pp. 57-81

governor any Legal Civil Power invested in him to punish Civil Crimes, but what he is graciously pleas'd from his own imaginary Power to assume to himself without any known Law or Written authority for his Exercising such Power." Bland saw problems with this "imaginary Power," claiming that it provided a latitude that "a Wise, a Prudent Governor would willingly avoid, lest it sho'd lead him into many Errors." As military men, Bland argued governors could not have the required expertise to be "Competent judges either to Try or Determine Civil Cases." According to Bland, governors could only reasonably pass judgment in such cases after they had been properly "examined & proved & the Points of Law argued and Settled."⁷⁹⁵

In the face of these challenges, Bland set about creating his own set of regulations for the Rock. Bland's regulations consisted of 10 articles "relating to the King's Revenue, the People's Property, and the Civil Police of this Town." Codifying these regulations, Bland hoped, would prevent his successor from encountering "the same disadvantages that I did by finding on my arrival here every thing in confusion and no Instructions of any kind left me."⁷⁹⁶ In Article 10, which related to the governor's power in civil affairs, Bland proposed that the authority of the current court should be extended to allow it to try cases that involved "Frauds, Pilfering, Personal Assaults and Abuses and other Breaches of the Peace, not extending to life and member."⁷⁹⁷

A committee of the Privy Council and the Attorney and Solicitor Generals,

⁷⁹⁵ "An Account of Lieutenant General Bland's Conduct," Article 10, GGA p. 57-

⁷⁹⁶ 10 Articles, "An Account of Lieutenant General Bland's Conduct," 1 March 1750/1, GGA, pp. 1-81.

⁷⁹⁷ 1752 Charter, 1 August 1752, "Charters of Justice," GGA; "Gibraltar: papers relating to the establishment of Civil Government and Civil and Criminal Courts," 1705-1758, TNA PC 1/3710; "Article 10 Relating to the Governors Power in Civil Affairs," TNA CO 91/62 p. 63.

concluded that in fact, more radical change was needed. The resulting Third Charter of Justice of 1752 would appoint three justices of the peace: the governor who acted as chairman at quarter sessions, the Judge Advocate, and one merchant. It allowed the existing Court Merchant to extend its jurisdiction to have “full power to grant probates of wills and administrations of the personal estates...within the said town.”⁷⁹⁸ It also, finally, created a Court of Criminal Jurisdiction to “hear determine and punish all murders Felonies Forgeries perjuries Trespasses and other Crimes whatsoever...(Excepting Treasons and misprisions of Treasure).”⁷⁹⁹ In these cases, a Grand Jury system would determine whether the case was triable, and a Petty Jury would hear evidence and deliver a verdict. The jurors must all be British subjects and the judges were to be given “the same Powers to Punish as Justices of Peace in England.” Those judges were to be the Governor, Judge Advocate, and “one British merchant”—a requirement that, given the unclear subject-status of most of the Rock’s inhabitants, was difficult to fulfill.⁸⁰⁰ Judges were not only to take the oath of allegiance, but also to make a formal declaration against the doctrine of transubstantiation, confirming that they were not Roman Catholics—another challenging dictate among a population of so many Genoese, Spaniards, and Portuguese. In spite of the exclusion of Roman Catholics from the office of Justice of the Peace and the insistence that juries should be made up of British subjects (of any religion), the law would, in theory, apply equally to all

⁷⁹⁸ 1752 Charter of Justice, 1 August, 1752, “Charters of Justice,” GGA.

⁷⁹⁹ 1752 Charter of Justice, 1 August 1752, “Charters of Justice,” GGA.

⁸⁰⁰ 1752 Charter of Justice, 1 August 1752, “Charters of Justice,” GGA. See also “Report of the Attorney and Solicitor General on the draft of a new charter for Gibraltar,” 1752 June 30, TNA PC 1/6/28.

inhabitants, except soldiers of the Garrison. Thoroughly civilian courts however were not established until 1817.⁸⁰¹ Until then, successive governor held the position of Chief Justice of Gibraltar.⁸⁰²

One of the first cases to be tried under this new system was the case of a Jewish porter named Samuel Soto who was accused of breaking into his employer's storehouse and stealing his goods. When the new court condemned Soto to death, Soto called not on the rights of British subjecthood, but rather his rights as a subject of the Sultan of Morocco. Leaders of the Jewish community in Gibraltar petitioned the *qā'id* of Tétouan, who made it clear that he would be displeased with the execution of a Moroccan subject in Gibraltar. Colonel Herbert argued that because Soto committed the robbery before the institution of the new judicial system, because Soto's was the first death penalty case, and because "the poor Wretch has lain many months in prison," the crown should show mercy. "I beg your Lordship will intercede with His majesty," Herbert wrote to the Secretary of State, "to spare his Life." Herbert argued that doing so would "have a very good effect on the rest of the Inhabitants." More importantly, perhaps, Herbert worried that because the Jewish community had called on the *qā'id* of Tétouan to claim Soto as a Moroccan subject, his execution might "might involve both your Lordship and me in a great deal of trouble"—trouble, perhaps, like a termination of supplies from across the

⁸⁰¹ "Heads of Letters to and from Gibraltar on Civil and Criminal Judicature, 1742-1810," and "report of Attorney and Solicitor General," 9 August 1758, TNA CO 91/62; "Report of the Attorney and Solicitor General about the proposed separation of the office of Judge of the Civil and Criminal Court in Gibraltar from the military office of Judge Advocate," 6 November 1758, TNA PC 1/6/69; 1752 Charter of Justice, 1 August 1752, "Charters of Justice," GGA; Benady, "The Complaint," 21-22; 1817 Charter of Justice, GGA Charters of Justice.

⁸⁰² Benady, "The Complaint," 21-22.

straits.⁸⁰³

Civil Government in Menorca

As in Gibraltar, clear regulation of gubernatorial authority and the organization of civil law was slow to develop in Menorca. And as in Gibraltar, it seemed clear from the start that these were required to foster a peaceful, prosperous, and functioning colony. In 1712, Queen Anne appointed Henry Neal to be “Surveyor of the Island of Minorca,” instructing him to make a thorough appraisal of many aspects of her new possession, including “how a Civil Magistracy is to be settled for the security of Traders and good Government of the Island.”⁸⁰⁴ Writing to a friend from Mahon, Neal reported that he hoped the island’s produce and revenue would increase “once a Civil Magistracy is settl’d,” but confided that “at present there is nothing but a military Government and many disorderly things committed, which makes the people very uneasie.”⁸⁰⁵ Unlike Gibraltar, however, Menorca did have an existing civil government: its *Universitats* and *Jurats*. With the island passing to the British, however, it was unclear what jurisdiction the *Universitats* would retain, and which powers were now in the hands of the military governor.

In preparing his report for the ministry, Neal turned to the advice of important and influential Menorcans. Juan Miguel Saura y Morell, had led the rebellion of 500 in support of Charles III, had joined Stanhope in his expedition to Menorca, and been

⁸⁰³ Herbert to Holderness, 1 January 1753, TNA CO 91/11 f. 302.

⁸⁰⁴ “A Copy of Mr Neal’s Warrant to be Surveyour of the Island of Minorca,” 27 November 1712, TNA CO 174/15 f. 55.

⁸⁰⁵ Henry Neal to Cox Macro, 22 June 1713, BL Add MS 32556 f. 38.

named *Governador de los Paisanos* (Civil Governor) by the Duke of Argyll.⁸⁰⁶ Also advising Neal were Saura's council, Lorenzo Beltran, and *Abogado Fiscal, Royal y Provincial* (Attorney General and Crown Prosecutor) Rafael Alberti y Garibaldo.⁸⁰⁷ Their report described the separation of civil and military power on the island during Spanish rule, in which "For maintaining of Peace & quietness...between the Country People and the soldiers," a separate civil and military court had been established. These courts "each had its peculiar Officers" who had "Cognizance of the things belonging to their Courts." Importantly, their report stressed that under Spanish rule, "the Military tribunal did not interfere with the Civil Tribunal nor the Civil with the Military." Saura, Beltran, and Alberti advocated the maintenance of the system of the *Universitats* suggesting that "for maintaining the quiet and Tranquility of the Island 'tis requisite" that the Royal offices—such as the *Abogado Fiscal* or *Asesor* (Chief Justice and General Council)—as well as the *Universitats* be maintained "with the same authority & Exemptions as they have hitherto Enjoyed them...so as every man in his place may quietly and freely goe on and do the Business of his office, as well in things that concern the Royal service as those of Publick good & Utility."

Answering questions about the relationships between the islanders, the soldiers, and the military authorities, Saura, Beltran, and Alberti complained of many abuses by the military, including the felling of fruit-bearing trees for the garrison's firewood and the

⁸⁰⁶ David Whamond Donaldson, "Britain and Menorca in the Eighteenth Century," (PhD diss., Open University, 1994), 40; Desmond Gregory, *Minorca, The Illusory Prize: History of the British Occupation of Minorca Between 1708 and 1802* (London; Toronto: Associated University Presses, 1991), 21; 219. *Governador de los Paisanos* literally means "Governor of the Countrymen."

⁸⁰⁷ *Abogado Fiscal, Royal y Provincial*, is literally "Royal and Provincial Prosecuting Attorney."

many “Thefts, Misusages & affronts which the officers and Soldiers of the Garrison of this Island do commit.” They described British soldiers “Rambling all the Island over, and in a headstrong manner getting into Vineyards, Orchards, Gardens &c and trampling down the Sowed Corn, Stealing the fruits, breaking the Fruits Trees, Killing of the Cattle.” They also complained that soldiers and officers often took islanders’ beasts of burden “for their pleasure or otherwise from one town to another, and instead of paying the Hire, doe frequently beat the owners not treating them as subjects of our lady Queen but as a Conquored People.”⁸⁰⁸

In order to remedy the situation in Menorca, Saura, Beltran, and Alberti encouraged better communication between the British military government and the Menorcan civil government. They wrote that they hoped “there may be a good Correspondence (as is necessary) Between the Troops of Her Majty (whom god preserve) & the Country people that they may live in Brotherly Love & with Reciprocal friendship since they are both subjects of one & the same sovereign.”⁸⁰⁹ Despite the general anger at being made subjects to a Protestant king, Menorcans, with expertise from centuries of occupation, were already wielding the important rhetoric of British subjecthood.

Many of the early interactions between Menorcans and the new British government were tinged with mutual suspicion. The British were concerned that Menorcans would never be ideal, desirable, or loyal subjects, and the Menorcans were fearful that the British would not protect their *fueros*, and would treat them as a

⁸⁰⁸ Answer to Neal’s articles by Dr. Juan Miguel Saura, Dr. Lorenzo Beltran and Dr. Rafael Alberti, 4 August 1713, BL Add MS 17775 ff. 36-41.

⁸⁰⁹ Answer to Neal’s articles, 4 August 1713, BL Add MS 17775 f. 41.

conquered people rather than as subjects. In a letter to a friend, Neal stressed that the problems of the island arose from the fact that it lacked a civil government:

“The produce is chiefly corn, wine, wool and cheese, and might be improved very considerable [...] if once a Civil Magistracy is settl’d, but at present here is nothing but a military Government and many disorderly things committed, which makes the people very uneasie. As to the people in generall they are well inclin’d to the Queen, and are willing to submit to any Laws she shall think proper for them to live by except a military power and hope in a short time here will be some instructions from England to prevent any disorders for the future.⁸¹⁰”

But there would be no instructions from England. Despite Neal’s report and a few false starts, London was silent about the matter of civil government, leaving the governors and *Jurats* to parry for power in a flurry of remonstrances, representations, and responses—vying for action from London to rectify their specific grievances.

Given the problems on the island, the ministry was keen to more clearly delineate the spheres of civil, military, and ecclesiastical government. In April 1714, Secretary of State Bolingbroke wrote not only to Neal, but also to Lieutenant-Governor Kane, Chief Engineer Brigadier Durand, and Admiral Wishart, telling them that he intended to “settle the Military, Civil and Ecclesiastical Government of Minorca this summer,” and seeking their “expert advice in their respective spheres of responsibility.”⁸¹¹ Secretary of State Bolingbroke suggested that two Menorcan representatives come to London to consult on how best to structure British rule, and ordered Kane to call together the “People and Inhabitants of the Island who are of the most consequence & open to them the Queen’s

⁸¹⁰ Neal to Marco, 22 June 1713, BL Add MS 32556, f. 38.

⁸¹¹ Bolingbroke to Neal, 22 April 1714, TNA CO 389/54; Bolingbroke to Kane, 22 April 1714, TNA CO 389/54; Bolingbroke to Durand, 22 April 1714, TNA CO 389/54; Bolingbroke to James Wishart, 22 April 1714, TNA CO 389/54.

intention to secure them their Civil and their Religious Rights, not only pursuant to the Stipulation of the late Treaty of Utrecht with them, but in the best & most perfect manner possible, in order to make them easy and happy under Her Majesty's Government. These persons shall bring along with them a full Stale of those Laws and Customs, & of all the Privileges of the Island.”⁸¹²

To carry out this mission, the *Universitat General* chose the island's *Paborde* (Church Provost), Manuel Mercader—who was also the *Vicario General* (Vicar General) until 1715—and Francisco Sanxo, a prominent lawyer who Kane would appoint *Asesor* in 1715. These syndics, however, did not reach London until August 1714, shortly after the death of Queen Anne. With a ministry more concerned with the problems of the Hanoverian succession and the Jacobite rebellion of 1715, the issue of civil administration in Menorca languished.⁸¹³

Without direct instructors from London, Lieutenant-Governor Kane was left to fend for himself. In the absence of any directives, he improvised. Kane began to implement his own projects for reforming the civil government of the island through what he would later refer to as his “government by the pen.”⁸¹⁴ Over the course of his rule in Menorca, Kane implemented many reforms, all without explicit authority to do so. He outlawed the carrying of arms, making the penalty for doing so (or for stoning the troops) public whipping—a punishment from which Menorcans were specifically exempt

⁸¹² Bolingbroke to Kane, 27 April 1714, TNA CO 389/54.

⁸¹³ Donaldson, *Britain and Menorca*, 134.

⁸¹⁴ Bruce Laurie, *The Life of Richard Kane: Britain's First Lieutenant-Governor of Minorca* (Cranbury, NJ: Associated University Presses, 1994), 125.

according to their *fueros*. He imposed social reforms—banning gambling houses and confining prostitution to outlying districts.⁸¹⁵ He also made important economic reforms—imposing a tax and license scheme on brandy to raise revenue for the repair of public roads and buildings,⁸¹⁶ taxing foreign ships entering the harbor to trade,⁸¹⁷ establishing a currency exchange rate,⁸¹⁸ and fixing prices on many foods and goods.⁸¹⁹

In April 1716 the *Universitat General* elected Juan de Bayarte Ametller to succeed Mercader as syndic in London, a move that proved contentious in Menorca. Kane refused to approve Bayarte's election as syndic and, upset that the *Universitats* had conducted the proceedings without his supervision or consent. He went so far as to deny Bayarte a passport to travel to London and seized the official papers of the *Universitat General*.⁸²⁰ Bayarte, however, managed to obtain a passport from interim Commander-in-Chief Colonel Parker while Kane was away in London. When Bayarte reached London in 1718, he published complaints against Governor Kane and gained a hearing in the House of Commons.⁸²¹

⁸¹⁵ Antonio Victory, *Gobierno de Sir Richard Kane en Menorca, 1712-1736* (Mahón: Imprenta de Manuel Sintés, 1924)), 341.

⁸¹⁶ Kane to Jurats, 26 September 1724, AM U 158.

⁸¹⁷ Kane to Jurats, 24 October 1724, AM U 158.

⁸¹⁸ "Sobre dolleros, y moneda vieja de Plata de España," Kane to Jurats, 12 July 1728, AM/U 158.

⁸¹⁹ "Sobre las assoraciones de Trigo, secada, Cerezo y lana," Kane to Jurats, 12 July 1728 AM U 158.

⁸²⁰ *A Humble Representation of several Grievances and Hardships of His Majesty's most faithful Subjects, the Inhabitants of Minorca* (London, 1717), p-5; Juan Miguel Saura to Lord Carpenter, 31 May 1718, TNA CO 174/15 ff. 157, 158; Craggs to Bayarte ordering him to return to Menorca, 2 December 1718, TNA CO 174/15 f. 207; "Protest against sending a Sindico by Dr. Juan Miguel Sauza," 28 May 1718, TNA CO 174/15 f. 163.

⁸²¹ *The Distress'd Condition of Minorca set forth in Answer to the Vindication of Colonel Kane* (London: 1720), 6.

A pamphlet on the “*The Distress’d Condition of Minorca*,” written by “a Member of Parliament,” (although almost certainly crafted by Bayarte himself), argued that in Menorca, “the Ecclesiastical and Civil Rights of the People have been occasionally suspended and dispenced with,” and that Menorcans were suffering “under a Military, not a Civil government, and consequently are Subjects to an Arbitrary Power, and not Partakers of the English Laws and Constitution, to which they have a Title whenever they shall demand it.” Attempts to silence Menorcans complaints, such as Kane’s denial of Bayarte’s passport, the pamphlet argued, meant that Menorcans were denied their “most valuable Right, the Right of petitioning to, and being heard by their Sovereign.”⁸²²

The pamphlet made the case for Menorcan rights on several grounds: that “both the Ecclesiastical and Civil Laws, Privileges, and Rights of the Island have been...abolish’d, contrary to what was by his Grace the Duke of Argyle, in her late Majesty’s Name, promised.” It also argued that the suspension of these rights and institutions was contrary to the Treaty of Utrecht: “the Chief Commandants not thinking themselves obliged to regard wither Royal Agreements or Promises, have made Laws of their own accord, and overthrown the Regularity of the ancient and former Method of Government.”⁸²³ It also appealed as subjects to their sovereign, arguing that if Kane was unwilling to hear the complaints of his “injur’d and distres’d fellow Subjects,” then certainly England’s “good and gracious Prince, who covers the Miserable from the Rage and Persecution of the Oppressor in Foreign Countries, would never suffer his own

⁸²² *The Distress’d Condition of Minorca set forth in Answer to the Vindication of Colonel Kane* (London: 1720), 12-13.

⁸²³ *Distress’d Condition of Minorca*, 16-17.

Subjects to groan under the Tyranny of wanton, wicked and abandoned Men, if he knew their Melancholy Condition.”⁸²⁴

The Privy Council considered the charges of abuse of power brought against Kane by the *Jurats* in 1717 and 1718, and by the House of Commons in 1720. They were dismissed as “frivolous and ill-grounded,” and Kane was “honorably cleared” of all the allegations.⁸²⁵ However, the complaints laid bare the unclear and overlapping spheres of power in Menorca, and the Privy Council formed several committees to examine the problem.⁸²⁶ The Archbishop of Canterbury, the Lord Chancellor, the Secretary at War, and the Master General of Ordnance were charged with reporting on the island’s ecclesiastical government, civil government and laws, military government, and fortifications respectively. Menorca’s revenues, naval affairs and commerce were to be examined by the Treasury, the Admiralty, and the Board of Trade.⁸²⁷

While committees got to work examining the governance of the island, Kane returned to Menorca. Although he had been cleared of the charges against him, the extent of his civil powers were still no more clearly defined. From 1719 until his death in 1736, he continued to govern by decree, despite active opposition from the *Jurats* and their continual complaints to the Privy Council. In his efforts to unilaterally reform civil affairs in Menorca and consolidate power, Kane also began to centralize authority in Mahon—the home of the British garrison and the colonial governor. In 1722 Kane transferred the

⁸²⁴ *Distress’d Condition of Minorca*, 22-23.

⁸²⁵ *A Vindication of Colonel Kane, Lieutenant-Governor of Minorca, against the late Complaints made against him by the Inhabitants of that island* (London: J. Roberts, 1720), 33.

⁸²⁶ Carpenter’s memorial to the King, 1718, TNA CO 389/54; Letters to the several committee chairmen from Secretary of State, 21 June 1718, TNA CO 389/54.

⁸²⁷ Craggs to Kane, 21 June 1718, TNA CO 389/54.

primary courts and the meeting of the *Universitat General* from Ciutadella to Mahon.⁸²⁸

In 1728 he decreed that the annual *Insaculación* (allotment) of *Jurats* would take place in Mahon.⁸²⁹ These acts weakened the influence of the *Universitat General*, and effectually made Mahon—the seat of British military authority—the capital of Menorca. By moving power away from the longstanding political center of Ciutadella, he could effectively marginalize the traditional Menorcan elite.

Kane carried out his reforms of civil government without the ministry ever defining the extent of gubernatorial authority. However, despite his autocratic style of governance, Kane repeatedly lobbied the ministry to draft regulations for Menorca that might clarify the arenas and extent of the governor's authority. On leave in London from 1728-1730, Kane and Governor Carpenter again raised the issue with the Privy Council.⁸³⁰ Once more, international and domestic interests outweighed the squabbles between a military commander and locals the small island. After the Anglo-Spanish war, Walpole had finally made what he hoped would be a more lasting peace with Spain. Fearful of Spanish and foreign Catholic opposition, and hoping to avoid any further allegations that the British had breached the Treaty of Utrecht, Walpole decided the time was wrong to make any official attempt to clarify the spheres of government in Menorca.⁸³¹ It would be another twenty years, the successful prosecution of a governor,

⁸²⁸ Victory, *Gobierno de Kane*, 357-358.

⁸²⁹ Kane to Jurats, "Sobre la Insaculacion yt Extracuion de nuestros Magistrados," 12 July 1728, AM/U 158.

⁸³⁰ Carpenter and Kane to the King in Council, 1730, BL Add MS 35885 f. 162.

⁸³¹ Laurie, *Life of Richard Kane*, 222.

the elopement of two nuns, and attention from the pope before Westminster would finally codify what legal jurisdiction the British government had over the lives of Menorcans.

RELIGION AND AUTHORITY IN MENORCA

The Ecclesiastical Government

In Menorca, the infringement of military authority upon religion and ecclesiastical government caused even thornier problems. From the beginning, both governors and the ministry were uncomfortable with the Treaty of Utrecht's protection of religion in Menorca—not simply from sheer religious bigotry and Protestant fervor (which played a large role in their rhetoric, if not always their policy), but also because the deeply entrenched ecclesiastical government had at its head, not only a foreign Pope, but perhaps even more subversively, the Spanish Bishop of Mallorca. Central to British concerns was the idea that because of the Catholic Church's hierarchy, Menorcans could never be loyal subjects, as their allegiances would forever be tied to Britain's longtime enemy, Spain. Major Whitford's 1740 account of the fortifications of Fort St. Philip voices common fears about the loyalties of Menorcans:

The Island of Minorca might be made almost impregnable, were the inhabitants in the British interest...At present the Islanders from their Religion are influenced by the Priests, that they are insensible of the blessings they enjoy; & such is their aversion to Heretiks, that they prefer poverty & oppression under a Roman Catholic Prince to riches and freedom under a Protestant one but particularly on all occasions of differences the concessions are prompted to exert their authority among those Bigots. Could a method be found out, either to convert them to the Protestant Religion, by our own clergy, banishing all the Priests, & educating the children in English schools...The expense wou'd in some measure be made up by a smaller number of regular troops being sufficient to defend the Island. The advantage the British reap in the possession of Minorca is from the use of the Harbour of Mahone: But as matters now are, the Minorquines being in the interest of the Enemy, the moment they land, as by the best information could be had,

their number will be so superior, that our own troops must be shut up in the castle of St. Philipps thereby the Harbour is lost...⁸³²

Whitford's account voices the common British assumption that Menorcans should be grateful for enlightened British rule—an enlightened rule that was tied closely to Protestantism. Menorcan religion was not simply a matter of heresy, but was a challenge to British control of the island itself. Indeed all of Whitford's proposals for making the Menorcans loyal subjects—expelling the priests, regulating education, and converting the local population, were debated or attempted over the course of the three periods of British occupation, but to little avail.

Before the British occupation, the Menorcan church was part of the See of Mallorca, and the Bishop of Mallorca appointed a *Paborde* (Provost) and *Vicario General* (Vicar General) to carry out the day-to-day business of the Menorcan Bishopric.⁸³³ There were also two Menorcan ecclesiastical courts, which were entirely independent of the civil courts and outside the control of the *Universitats* or the governor. The *Tribunal del Santo Oficio*, an Inquisition court, prosecuted breaches of faith or morals—particularly blasphemy and witchcraft. A commissioner from mainland Spain presided over the court, which was independent of any other court in Menorca and whose verdicts could not be appealed.⁸³⁴ The *Curia Ecclesiastica* heard cases involving canon law, quarrels between clergy or parishes, domestic and marital disputes, as well as civil and criminal cases brought against anyone who had taken holy orders and who was

⁸³² "Major Whitford's account of the Fortifications at Port Mahon," April 11 1740, TNA War Office (hereafter WO) 1/294 f. 727.

⁸³³ Donaldson, *Britain and Menorca*, 200.

⁸³⁴ Donaldson, *Britain and Menorca*, 200.

therefore, according to the *fueros*, exempt from prosecution in the civil courts. Its judges were the *Vicario General*, the *Asesor*, the *Abogado Fiscal*, and the *Procurador Fiscal*.⁸³⁵ Any appeals were referred to the tribunal of the Bishop of Mallorca.

After the British occupation of the island, the inquisition court was dissolved, but the *Curia Ecclesiastica* (Ecclesiastical Court) caused a problem. For Menorcans, the practice of their religion required that they engage in their Church's hierarchy. Appeals in ecclesiastical cases must naturally be presented to their bishop—the Bishop of Mallorca. However it was an anathema to the British that appeals from any court in British territory should be heard in Spain.⁸³⁶ For civil cases, the Privy Council had become the court of appeals for Menorca. But how could the Privy Council be responsible for hearing cases involving Catholic canon law?

There were many contradictions between the laws of Great Britain and the “Privileges, Immunities, municipal Laws and the ancient, established, unalterable Custom and Practice of the Island.”⁸³⁷ However, the clergy presumed that because of the religious protections provided by the Treaty of Utrecht and the promises of General Stanhope, the Duke of Argyll, and the Queen to honor the islanders' *fueros*, the ecclesiastical courts would remain intact. Governor Kane, however, believed that his duties to uphold the authority of the British monarchy, safeguard the security of the island, and ensure the moral welfare of the garrison required him to temper the power of

⁸³⁵ Similar to the Scottish Procurator Fiscal, the *Procurador Fiscal* investigated civil charges and pressed prosecution.

⁸³⁶ Donaldson, *Britain and Menorca*, 200.

⁸³⁷ “Abstract of the Constitution and Government of Minorca presented to the Secretary of State by Mateo Mercadal y Sanxo and Bernardo Olives y Olives,” 6 March 1755, TNA CO 174/16 ff. 253-259.

the clergy and decrease the influence of Spain. In England, the king was head of both state and church. To Kane, therefore, it could never be “consistent with the civil government and laws of Great Britain” that the clergy of a British territory could be subject to the spiritual authority of a Spanish Bishop.⁸³⁸ “If the Church of Minorca shall be continued under the Direction of the Bishop of Majorca,” Kane believed,

“he will have such a Power over the consciences of Your Majesty’s Subjects of that Isle, as will incline them to a continual Dependence on the Crown of Spain, and keep them in that Interest; and consequently Your Majesty may expect frequent Complaints from the Court of Madrid, at the Instigation of the Court of Rome. Nor will those that Your Majesty shall be pleased to appoint as Your Governors there, be ever at ease in their Administration.”⁸³⁹

Fearing this foreign influence Kane sought to regulate the Menorcan church “until the Queen’s pleasure be known.” The regulations focused on extracting any potentially dissident Spanish influence from the ecclesiastical hierarchy and protecting the Protestant scruples of the English soldiers of the garrison. Kane took it upon himself prohibit priests from administering sacraments to members of the garrison. He also banned all foreign clergy from preaching on the island and demanded that the Menorcan clergy swear an oath of allegiance to the King. Further, he issued orders to prohibit Menorcan clergy from recognizing, taking ecclesiastical instructions from or paying tithes to the Bishop of Mallorca. He also forbid any further tribunals of the inquisition, or appeals of the *Curia Ecclesiastica* to the Bishop of Mallorca.⁸⁴⁰ When the Bishop proposed a visit his

⁸³⁸ The Treaty of Utrecht, Article XI.

⁸³⁹ *Vindication of Colonel Kane*, 2-3.

⁸⁴⁰ Kane to Mercader, 19 May 1714, Archivo Diocesano de Menorca, Documentos Santos Oficio, Caja 40; Blakeney to Bedford, 5 July 1749, TNA CO 174/2 f. 117.

Menorcan flock, Kane denied his request.⁸⁴¹ After the *Curia Ecclesiastica* sentenced a resident of Mahon to prison because his daughter had married a “dissolute man,” Kane proposed that all prison sentences handed down by the court should be reviewed instead, by the governor—a request that must have only heightened the feeling that not in was not only the island that was governed by military authority, but the islanders’ religious lives was as well.⁸⁴²

In response to Kane’s regulations, Manuel Mercader, the *Vicario General* of Menorca, presented 25 proposals for the future of ecclesiastical authority under British rule. Mercader suggested, among other things, that Catholicism be protected on the island “to the entire Satisfaction of the Ecclesiastical Prelate,” and that, as in Gibraltar, neither Jews nor Moors be permitted to reside in Menorca. Mercader also proposed that no Catholic be allowed to convert, no foreign missionaries be received, mixed marriages be prohibited, that the Bishop of Mallorca should be allowed to visit, and that no sons of Catholics be taught in Protestant schools. These proposals also reasserted that no member of the clergy could be subject to punishment by civil or military authority, and that the governor could not interfere with the exercise of ecclesiastical jurisdiction. Further, Mercader proposed that the governor himself should have to “swear before Bailiff in the Court, that he will keep, Maintain, and Observe, all the privileges, Constitution and Customs, as well Spiritual as Temporal” of the island.⁸⁴³

⁸⁴¹ Gregory, *Minorca*, 114.

⁸⁴² Laurie, *The Life of Richard Kane*, 157.

⁸⁴³ Petition of Mercader and Sanxo to the Privy Council, 1716, CCL, Wake Mss vol. 24, f. 150, reproduced in Laurie, *The Life of Richard Kane*, Appendix C.

Kane ignored these proposals and continued to rule by decree in the ecclesiastical and well as the civil realm. Fearful of an influx of foreign clergy who might foment discontent among the islanders or act as spies, he expelled several of them from the island, including *Vicario General* Cristóbal Rubí del Villar, who had been appointed to the post by the Bishop of Mallorca in 1715 and was opposed to many of Kane's reforms.⁸⁴⁴ Anger about Kane's religious decrees, his expulsion of Spanish clergy, and tension between the islanders and garrison continued to fester.⁸⁴⁵ In April 1717, the Spanish Ambassador, Marqués de Monteleón, made 28 articles of complaint against the restrictions Kane made on the Menorcan church and harassment by British soldiers.⁸⁴⁶ He aimed to prove that aspects of Kane's policies and government were in breach of the protection of Catholic worship guaranteed by the Treaty of Utrecht. The articles complained of soldiers who stole the clappers from the bells at the parish church in Mahon, stripped bars off the convent gate to flirt with the nuns, intruded on the convent of St. James to examine the consecrated hosts, and perpetrated a multitude of other insults and abuses. Kane dismissed these accounts as nothing more than the kinds of mischief that happens when "so many young men happen to be together." He claimed that the clappers were taken away by "some People in a Frolick in the Night-time," that the flirting sailors were "far from being disagreeable to the Ladies," and caused "more mirth in the convent than uneasiness," and that the trespassing soldier was little more than a

⁸⁴⁴ Laurie, *The Life of Richard Kane*, 202-203.

⁸⁴⁵ George Bubb to Paul Methuen, 19 April 1717 N.S., BL Egerton MS 2174 f. 161.

⁸⁴⁶ Marqués de Monteleón "Memoires des complaints contre le gouverneur de minorque," 9 April 1717, BL Egerton MS 2174 ff. 153-157.

curious young man on his first visit to “a Roman-Catholick country.” Such incidents did not, Kane claimed, constitute any breach of the Treaty of Utrecht.⁸⁴⁷

In response to the Spanish Ambassador’s complaints about the regulations he had imposed on the clergy, Kane also pleaded for a clearer explanation of his powers: “I have hitherto acted without any instructions from Court that the King will be pleased to determine whether the orders I gave to the Clergy (which were only until his Maj pleasure be known) be approved or disapproved & He would be pleased to consider how a commanding officer shall act for the future in respectt to the Church least through inadvertency he may do those things that shall be judged a Breach of the Peace of Utrecht or run the risque of losing his head.”⁸⁴⁸

Despite the prolonged lack of instruction from the ministry, interest in the religious future of Menorca was very much alive in the metropole. As Brent Sirota argues, the Anglican Church in the early eighteenth century adopted a “blue water policy”—an active interest in Britain’s maritime and commercial empire. This policy, he argues, “allowed an established (and downright telluric) church plotted in the insular dioceses of England and Wales to begin reckoning the far-flung populations affected by English global commercial and strategic interests within its moral purview.”⁸⁴⁹ As such, Anglican activist groups such as the Society for the Promotion of Christian Knowledge took a keen interest in Menorca. These activists had lobbied for what the group’s

⁸⁴⁷ *Vindication of Colonel Kane*, 11-13.

⁸⁴⁸ Colonel Kane’s Letter with his answers to the complaints against him by the Spanish ambassador, 10 September 1717, TNA CO 174/15 f. 134.

⁸⁴⁹ Brent S. Sirota, *The Christian Monitors: The Church of England and the Age of Benevolence, 1680-1730* (Variation: Lewis Walpole Series in Eighteenth-Century Culture and History, 2014) 224-225.

secretary Henry Newman called “the more effectual establishment of the Protestant interest in Minorca.”⁸⁵⁰ Anglican attention to Menorca heightened when, in 1718, William Wake, the Archbishop of Canterbury, was slated to lead a committee of churchmen to finally make recommendations for the regulation of Menorca’s ecclesiastical government.⁸⁵¹

Kane and Wake worked closely on the proposals for ecclesiastical reform, and the Society for the Promotion of Christian Knowledge began corresponding with Kane regularly. Henry Newman praised Kane’s work on ecclesiastical reform as “an instrument raised up by Providence to be the means of abundance of good in those parts which increased.”⁸⁵² In the end, the committee’s proposals were very similar to Kane’s original regulations. They proposed banning foreign priests,⁸⁵³ cutting ties with the bishop of Mallorca, banning the inquisition, and prohibiting clergy from proselytizing, marrying, or baptizing any British subjects without the governor’s permission. They also made the clergy liable to civil prosecution and required them to take an oath of fidelity to British crown. They also proposed that Menorcans should be allowed to convert to Protestantism without consequence,⁸⁵⁴ and, most radically, that Menorca should be put under the care of

⁸⁵⁰ SPCK Minutes, 4 June 1713, §5, S.P.C.K.: Early Eighteenth Century Archives (London: World Microfilm Publications, 1977), quoted in Sirota, *The Christian Monitors*, 236.

⁸⁵¹ Mercader’s “25 Articles,” CCL Wake Mss vol. 24, ff. 143-146 1718, reproduced in Laurie, *The Life of Richard Kane*, Appendix C.

⁸⁵² Henry Newman to Richard Kane, 28 December 1719, quoted in Sirota, *The Christian Monitors*, 237.

⁸⁵³ Article 3 and 4, CCL Wake Mss vol. 24, ff. 143-146, reproduced in Donaldson, *Britain and Menorca*, 208.

⁸⁵⁴ Article 2; 5; 7; 8; 3; 10, CCL Wake Mss vol. 24, ff. 143-146, reproduced in Donaldson, *Britain and Menorca*, 208.

an English Bishop appointed by the king.⁸⁵⁵ The recommendations of the committee vindicated Kane's decrees, but he disagreed with their conclusion that the Menorcan church should be put under the jurisdiction of an Anglican bishop. He believed that Menorcans would violently reject anyone other than a Catholic Bishop, and hoped to appoint Mercader to this post. Ironically, because he was born in Valencia, Mercader was not eligible for such a post according to Article 1 of the committee's recommendations that "no Clergyman whatsoever, Regular or Secular, be hereafter admitted as a member of the Churches or Convents of Minorca, or have any Benefice there, or receive any Revenue from thence, but the Natives of the Island."⁸⁵⁶

Despite these bold proposals for reform of Menorca's ecclesiastical government, (as with the issues of civil government) "the affairs of Great Britain did not permit that work to go forward."⁸⁵⁷ The Whig ministry of George I never relished the prospect of a religious struggle on an island that had been secured for strategic and commercial purposes, and London's interest in the ecclesiastical affairs of Menorca languished. Concern about overstepping the bounds of authority laid out by the Treaty of Utrecht, and frustration that the ministry failed to issue specific instructions would plague governors for the entirety of the British occupation of Menorca.⁸⁵⁸

⁸⁵⁵ CCL Wake Mss vol. 24, ff. 143-146, reproduced in Donaldson, *Britain and Menorca*, 208.

⁸⁵⁶ "Don Manuel Mercader's answer to the Charge alledged against him by Don Juan de Bayarte," TNA CO 174/15 f. 85; Article 1, CCL Wake Mss vol. 24, ff. 143-146, reproduced in Donaldson, *Britain and Menorca*, 208

⁸⁵⁷ Governor Carpenter's petition to the King, 1718, TNA CO 389/54.

⁸⁵⁸ Governor Carpenter's petition to the King, 1718, TNA CO 389/54.

The Nuns and The Pope

After Kane's death in 1736, the remaining twenty years of the first period of British rule in Menorca saw no improvement in the relations between the governor and the civil or ecclesiastical governments. The major difficulty continued to be the contrast between the Menorcans' belief that the Treaty of Utrecht did not give the governor any authority to interfere in matters of civil or religious government, and the stance of the Governors who saw it as their duty to intervene if they considered it to be in the interest of "His Majesty's service."⁸⁵⁹

Because of the religious and political tensions on the island, some in Britain hoped to populate the island with more "desirable" subjects. Early in the era of British rule, Colonel Daubuis put forth "A Plan for settling the Island with a Sett of Substantial and Industrious inhabitants," a proposition that was largely ignored, even when it was again taken up by his son-in-law years later. The plan proposed "to settle immediately a numerous Colony of substantial and Industrious Protestants in the Island of Minorca"⁸⁶⁰ Such plans were proposed for British colonies throughout the Empire, although they rarely succeeded. One plan to populate a new British colony did succeed, but ironically it was not with Protestants, but instead with Menorcans. In the 1760s, Andrew Turnbull formulated a plan to populate the colony of Florida by providing passage to about 1,000 Menorcans, who migrated there in 1768.⁸⁶¹ Although no plan to repopulate Menorca ever succeeded, the British authorities did encourage the migration of religious minorities

⁸⁵⁹ Governor Carpenter's petition to the King, 1718, TNA CO 389/54.

⁸⁶⁰ "A plan for settling the Island of Minorca with a Sett of Substantial and industrious Inhabitants," TNA CO 174/1 ff. 65-67.

⁸⁶¹ Admiral Richard Spry to Philip Stephens, Secretary of the Admiralty, 30 May 1768, TNA ADM 1/385.

(particularly Greek Orthodox), believing (rightly in many cases) that as non-Catholics (and immigrants to a new land, rather than natives of an occupied territory) they would be more sympathetic to the British government.

The oppositional positions of the military and civil governments and of Catholic and Protestant subjects discouraged any substantial British civilian settlement and prevented all but a few mixed marriages. There were, however, a handful of interfaith unions. The most sensational and scandalous were those of the three Menorcan nuns who, in 1749, under cover of night, escaped the convent of St. Claire (where they had been brought up since children) with the help of their ladder-wielding British lovers.

Margarita Sintes and Margarita Gomila had become engaged to British soldiers: Lieutenants George Kelly and Roger Schaak. A third nun, Margarita Alberti, evidently tired of a life locked away in a convent, escaped with them. The three nuns came from important families in Ciutadella, and when their flight was discovered, their families, Menorca's Clergy, the *Vicario General*, and the *Jurats* demanded Governor Blakeney punish the soldiers and secure the women's return to the convent. Blakeney, somewhat bemused by the "three rash giddyheaded girls," and unwilling to force them to return to their irate relations or the convent against their will, was nonetheless unsure exactly how to handle this religious and cultural tinderbox.⁸⁶² He permitted two priests to visit them, and also removed them from Captain Kelly's house, putting them under the care of "Captain Rollo's Lady" and ensuring "that at night the doors and Windows of the room where the ladies lay should be sealed up in sight of the Clergy," to prevent the women

⁸⁶² Extract of a letter from Blakeney to Bedford, 31 January 1748/49, TNA CO 91/1 f. 96; 89; 90.

from carousing with their British beaus.⁸⁶³ Meanwhile the *Jurats* hounded Blakeney with memorials, the women's families threatened to complain to England, and the clergy threatened to complain to Spain and even the Pope.⁸⁶⁴

Blakeney's somewhat tortured response to the *Vicario General* speaks volumes about the vast cultural gulf between governors and the islanders, and the thorny problems of British sovereignty in a Catholic realm. Blakeney found it "inconsistent with my Duty to his Majesty to expose any of his subjects to such risks, as it was with my own Honor to become a remote cause of Barbarity & a tool of persecution for the sake of a religion, which by the Treaty of Utrecht, we are bound to permit & and preserve by such mild measure as are consistent with British Law." [I must] "uphold the British Constitution," Blakeney wrote,

As I have the honor to represent a king who is the refuge for Protestant subjects of other Princes, with what face can I deny protection to his own subjects who are willing to be receiv'd into that faith. As I was born and bred up in a free country, how can I find fault with any one for having fled from bondage and asserted that liberty which I have always looked on as the Birthright of all mankind.⁸⁶⁵

Blakeney's correspondence with the *Vicario General* not only reveals the uneasy relationship the military government had with the local civil and religious authorities, but also the extent to which the language of British subjecthood became important in the debate around the women's future. For Blakeney, "British Law," the "British Constitution" "born and bred in a free country" "liberty" and birthright" were opposed to

⁸⁶³ Extract of a letter from Blakeney to Bedford, 31 January 1748/49, TNA CO 91/1 f. 90; 97.

⁸⁶⁴ Extract of a letter from Blakeney to Bedford, 31 January 1748/49, TNA CO 91/1 f. 92.

⁸⁶⁵ Blakeney to Michael Morrer, TNA CO 174/2 ff. 99-102.

“barbarity” “persecution” and “bondage.” Although Menorcans had access to many of the practical rights of subjecthood, most of them were separated from Blakeney’s conception of “Britishness” by a vast sea of cultural and religious ideology.

The former nuns, however, skillfully accessed the language of both subjecthood and Protestantism—although whether through coaching by the Anglican clergy, their hosts, their husbands, or their own experiences with the rhetoric of British rule it is impossible to tell. In a memorial, Margarita Senta, invoking the “laws of Great Britain,” asked the Governor’s protection and requested that she be allowed the “Conversation of an English Chaplain for my being instructed in the Protestant religion, delivering from the impertinence of the popish clergy, who persecute me by saying scandalous things of my husband as contrary to the truth, as they are to the Honor of the English Officers.”⁸⁶⁶ Margarita Alberti asked that she be able to “enjoy the same privileges with the Protestant Subjects of a British King whose particular glory it is to reign over a free people and not slaves.”⁸⁶⁷

The scandal of the escaped nuns, along with years of tensions between governors and the clergy, resulted in the religious provisions in the Regulations of 1752. In an effort to clarify the unclear spheres of religious, military, and civil sovereignty on the island, the regulations stipulated that religious controversies were to be settled by the governor in consultation with the *Vicario General* and other “chief ecclesiastics” without appeal to any external authority. Inspired by the sensational story of Sintes, Gomila and Alberti, the

⁸⁶⁶ Memorial of Margret Alberti, TNA CO 174/2 f. 107.

⁸⁶⁷ Memorial of Margret Alberti, TNA CO 174/2 f. 106.

regulations required that no woman be allowed to become a nun until she was at least twenty-six years old. If it was proven that she had been coerced into the convent, the governor was to have the power to discharge her from the convent and dispose of her dowry. Additionally, the regulations stipulated that no young people were to leave Menorca to be educated in any Catholic country.⁸⁶⁸ The paternalistic aspects of these last two regulations suggest that by controlling the religious futures of the youth of Menorca, the British could create a new generation of ideal subjects—free from the “Barbarity, bondage and persecution” of the “popish clergy.”

The Empire Steps in: Regulating Authority in Menorca

The religious and ecclesiastical articles of the Regulations of 1752 were part of a major program of new laws and rules that would attempt to define the spheres of military, civil, and ecclesiastical government in Menorca. The governors who had succeeded Kane—Pinfold, Anstruther, and Blakeney, had continued to struggle with the ecclesiastical and civil authorities of the island. However, the fact that all of the governors were accused (and in the case of Anstruther convicted) of corruption, embezzlement, and of imprisoning and dismissing opponents, shows that military-civilian relations in Menorca had further deteriorated.⁸⁶⁹

⁸⁶⁸ Orders of Council, 28 May 1752, TNA CO 174/19 ff. 2-6; “Translation of a Paper concerning some Complaints from the R. Catholicks in the Island of Minorca,” 1753, TNA CO 174/16 f. 175; “Instructions for the [Governor] of Minorca,” 25 August 1753, TNA CO 174/16 f. 142.

⁸⁶⁹ For complaints against Anstruther see Committee Report on the Complaint of Juan Mir against General Anstruther, 1 March 1748, TNA PC 2/101 ff. 202-203. For complaints against Pinfold see 2 June 1739, TNA PC 2/95 f. 198-201; For complaints against Blakeney see “The Petition and Representation of the Magnificent Jurats and Council of the University of Mahon...” Archivo Histórico de Mahón (hereafter AM) Universidades (hereafter U) 373.

Although each new governor in Menorca received his share of complaints that he was interfering in civil government, Anstruther was particularly active in attempting to control the *Universitats*. He terminated and imprisoned five *Jurats* and syndics, who were only liberated after they appealed to the Privy Council in 1739.⁸⁷⁰ The *Jurats* also complained that Anstruther forced them to sign documents against their will and interfered in local elections by replacing nominated candidates with his own contenders, many of whom were foreigners.⁸⁷¹ The *Jurats* also complained that he had continually refused to reply to any memorials critical of his administration.⁸⁷²

In his petition to the Privy Council against Anstruther, syndic Juan Mir heavily employed the language of subjecthood, comparing “the Blessings of the most mild and Indulgent administration” enjoyed by “His majestys other Subjects,” with the tyranny and despotism experienced by Menorcans. He claimed that Anstruther applied taxes and import duties “in such a Hard Cruel and Unprecedented manner that the like was never known or Experienced in any Civil Government,” claiming that “the whole Island is brought to the very Brink of Ruin all their valuable Priviledges are broken and the Inhabitants Reduced to the utmost state of misery.” Mir asserted that while other British subjects enjoyed “the fullest Enjoyment of Liberty and Prosperity,” in contrast,

The Inhabitants of Minorca are the only part of His majestys Subjects who are deprived of those most valuable Priviledges for none of them are in the free Enjoyment either Liberty or Property of have any Command over their own

⁸⁷⁰ Petition of Dr. Simon Olivar y Cardona, Dr. Francisco Caules, Bartolomé Mascaró and Tomás Castel, 26 July 1739, AM/U (Dip) 370, leg. 16.; May 1752, TNA PC 2/101, ff. 202-203.

⁸⁷¹ Complaints against Anstruther, TNA PC 1/60/8; “Suplico del Mag. Juan Mir y Espineto...” 1743, AM/U 373, no. 17-24.

⁸⁷² “Suplico del Mag. Juan Mir y Espineto...” 1743, AM/U 373.

Persons or Estates, which are at the absolute Disposall of the said Lieut Governor Anstruther who Exercises his Power over them in so very Despotick a manner that they are quite overwhelmed with misery and Slavery.”⁸⁷³

Although Mir brought these allegations against Anstruther in 1743, the Privy Council did not make its finding for another five years. The *Jurats* made twenty-five complaints in all, many of them submitted in the Catalan dialect Minorqui, without translation. The council complained that “the Papers were so numerous and the Persons so few who were thoroughly acquainted with the Language that a great length of time was taken up before this could be done.”⁸⁷⁴ Finally they asked Mir to choose the most pressing complaints. In 1748 the Privy Council found that Anstruther “acted in an Arbitrary and unwarrantable Manner, to the great Injury and Oppression of many of Your Majestys Subjects.”⁸⁷⁵ The committee found that not only would the complaints be grounds for Anstruther’s dismissal were he still in office, but that he should make reparations to all who had “been injured by him in their Persons or Property,” and that he should cover the costs of the prosecution of the complaint before the Privy Council. Finally, “for the preventing any proceedings of the like nature for the future,” they proposed that finally, after years of silence and false starts, “some Regulations...be made for the better guidance and Conduct of your Governors of the said Island.”⁸⁷⁶

⁸⁷³ “Memorial presentado a su Mag.d Britanica en Consejo por el Magd Juan Mir y Espineta Sindico de la Universidad de Mahon Contra Dr. Phelipe Anstruther...” AM/U 373; Petition of Juan Mir and Espinta, 11 August, 1743, TNA PC 1/60/8.

⁸⁷⁴ “Minorca: Committee Report on the Complaint of Juan Mir against General Anstruther late Lieutenant Governor,” 1 March 1748, TNA PC 2/101 p. 193.

⁸⁷⁵ “Minorca: Committee Report on the Complaint of Juan Mir against General Anstruther late Lieutenant Governor,” 1 March 1748, TNA PC 2/101 p. 202.

⁸⁷⁶ “Minorca: Committee Report on the Complaint of Juan Mir against General Anstruther late Lieutenant Governor,” 1 March 1748, TNA PC 2/101 202 “; Privy Council Report, 16 March 1748, AM/U 373.

The “Regulations of 1752”

A committee tasked with drafting regulations for Menorca finally made its report in 1752. They argued that governors should respect the island’s *fueros*, should not interfere with the civil government and procedures of the *Jurats*, and must not restrict the islanders rights to make petitions to the king. They also suggested that the governor himself (and not simply the Lieutenant-Governor) should live in Menorca. More surprisingly, they suggested that a civil governor should be appointed to correspond with the *Jurats*, and that a court of appeals should be established on the island.

These proposals, however, were not yet decrees. However, they paved the way for the first attempt in forty years to define the sphere of civil government. The regulations that followed limited the governor’s power to intervene in the economic life of the island, gave the *Jurats* the power to appropriate housing for the troops, distribute wood and meat to the garrison, and enforce the brandy licensing system. They forbade the governor from engaging in trade, and prohibited him from preventing Menorcans from leaving the island.⁸⁷⁷

From Menorca, Governor Blakeney complained mightily about the negative consequences these restrictions had on his authority, as well as the increased power the *Universitats* had in the colony. Blakeney claimed that the new powers of the *Jurats* had resulted in a paucity of meat, insufficient wood for the garrison, irregular prices for wine

⁸⁷⁷“Copy of the Regulations for Minorca approved by the Lords Justices in Council,” 28 May 1752, BL Add MS 23638 ff. 30-31.

and corn, and a major decrease of foreign imports.⁸⁷⁸ While Mir and the *Jurats* had used the language of “subjecthood,” “tyranny” and “despotism” to argue that their rights were being infringed, Blakeney attempted to use the islanders’ own cherished *fueros* to argue for his gubernatorial prerogative. He cited a 1666 Spanish decree which held that while the *Universitats* were charged with providing for the island, the “governor was charged to see everything that was for the common good, duly executed.”⁸⁷⁹

Blakeney claimed that in addition to the economic problems the Regulations of 1752 caused, they also fueled a power struggle between the *Universitats* of Mahon and Ciutadella. During his tenure as Lieutenant Governor (and few years as governor) Kane had decreased the power of Ciutadella, the traditional seat of Menorcan power, and home of Menorcan elites. With the new restrictions on gubernatorial power, the *Universitat* of Ciutadella took the opportunity to try to win back their power over the civil administration of the island. Blakeney claimed that “Kane and his predecessors constantly endeavored to prevent either of the universities from exercising by act of superiority” but that the “power given to the Jurats has so intoxicated them” that they were vying for power among themselves.⁸⁸⁰

Despite his reduced control, Blakeney did arrest and imprison two people for assaulting army officers. Although each had been tried and found guilty by the *Universitat* of Mahon, they had only been fined for the offence, a punishment that

⁸⁷⁸ Abstract of several letters & papers from general Blakeney, Lieutenant Governor of Minorca in 1752 & 1753, TNA CO 174/16 ff. 55-63.

⁸⁷⁹ Abstract of several letters & papers from general Blakeney, Lieutenant Governor of Minorca in 1752 & 1753, TNA CO 174/16 f. 57.

⁸⁸⁰ “Abstract of several letters & papers from general Blakeney,” TNA CO 174/16 f. 57.

Blakeney found to be insufficient. He argued that “it is of the greatest consequence not to suffer offenders of this kind to escape with a slight pecuniary Punishment.” He claimed that because “their Judges are natives,” they were “inclined to shed great partiality to their countrymen.” Therefore, Blakeney maintained, his interference in the judicial process was warranted because it was “highly necessary to keep up a proper care and respect for his majesty’s officers.”⁸⁸¹ According to Blakeney, giving control of civil prosecution over to the local government resulted in unjust leniency on fellow Menorcans, and disrespect to the crown—a perspective that echoed the longstanding refrain that Menorcans were not loyal subjects.

In response to Blakeney’s complaints, the Privy Council suggested that the rules be clarified:

It appears to them that the confusion which has arisen in the Island is occasioned by the governor, and the Magistrates having mutually misconceived your majesty’s said regulations which...were intended to redress their former complaints, not by divesting either their Party of the Powers properly belonging to them, but by establishing such a check and control as might prevent abuses in carrying into execution those powers with which they are respectively vested.⁸⁸²

In fact, the central problem was that it had never been clear which powers belonged to each party. For forty years, the governor and *Jurats* had clashed and compromised, but the first codified regulations seemed only to make the competition and complaints more intense. The Privy Council scrambled to amend the regulations, eventually deciding to retract them altogether, putting in their place a new and more severe measure: the Regulations of 1753.

⁸⁸¹ “...papers from general Blakeney,” TNA CO 174/16 f. 60.

⁸⁸² “...papers from general Blakeney,” TNA CO 174/16 f. 64.

The Regulations of 1753

Illustrative of the British frustrations with Menorca was Lord Tyrawley's comments and suggestions on the draft of the 1753 regulations. Tyrawley had been the governor of Menorca since 1747, but in the tradition of what Desmond Gregory terms "Absentee recipients of Whig political patronage,"⁸⁸³ he had not set foot on the island since he served there as a colonel between 1713 and 1715. As the ministry attempted to draft new regulations for Menorca's government, Tyrawley was asked to provide his comments and suggestions on the proposal.⁸⁸⁴ In his notes on the planned regulations, he set about crafting a program in which as governor he would have "absolute authority." "I must be left at my full Liberty," he wrote, "and not leave it in the power of the Jurats there to produce Orders and Regulations"⁸⁸⁵

The document is an interesting one. Tyrawley was the only man appointed governor who had any experience in Menorca before his appointment, and his attitude toward the Menorcans illustrates the extent to which he believed that they were not desirable subjects, but rather a "rabble of beggars and banditti" who needed to be subdued.⁸⁸⁶ His suggestions for the regulations are rife with crossed out sections, insertions, and suggestions that toggle between his disdain for Menorcans, his certitude that the island was in need of an absolute ruler so that "quiet and proper Obedience may be restored in the Island," and his understanding that his suggestions should be moderated by a sense of the goodwill and "mild government" of British rule. He struck out the

⁸⁸³ Gregory, *Minorca*, 35.

⁸⁸⁴ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 ff. 95-116.

⁸⁸⁵ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 f. 102.

⁸⁸⁶ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 f. 102.

phrase “the minorqueens must be govern’d by [...] a severe hand; I would say a rod of Iron,” arguing instead that, used as they were to military rule and “hearing of no other, amongst their neighbours,” Menorcans “must be ruled by Principles some thing of the same nature.”⁸⁸⁷ His argument reveals much about how British colonial administrators viewed their Menorcan subjects. These subjects were not the “freeborn Englishmen” who would come to characterize so many of the debates about the rights and privileges of native-born subjects. After forty years of British rule, many Menorcans had indeed been born under “the mild government” of the British crown. However, their status as Catholics, and their adversarial relationship with colonial governors over the proper spheres of power, meant, according to some administrators, that they could not claim the liberties of British subjects but must instead be ruled with “a rod of iron.” Tyrawley also suggested that the governor be given power to dismiss or disqualify *Jurats* from holding office, as well as full power over the civil branch of government. He argued that the governor should be afforded the title of first magistrate—and be the chief justice in all civil cases.⁸⁸⁸

Tyrawley, like so many governors before him, also took on the Treaty of Utrecht, noting that it made no mention of any “rights, privileges or immunities” and arguing further that although Menorcan petitions and representations often made reference to the Duke of Argyll’s promises to protect their *fueros*, he could find no record of that promise in the archives. The Duke had indeed made such a promise in 1712, in response to

⁸⁸⁷ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 f. 102; 128.

⁸⁸⁸ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 f. 103.

Menorcan representations that General Stanhope had articulated that promise four years earlier.⁸⁸⁹ Tyrawley went on to argue that even if Argyll had made such a promise, because Menorca had been taken in the name of Charles III of Spain any such promises were invalid under British rule.⁸⁹⁰

In the end, the Regulations of 1753 did indeed greatly strengthen the governor's authority. They gave him the power to intervene in the economic decisions that had once been the prerogative of the *Universitats*, and gave him control over the lucrative brandy licensing and anchorage taxes.⁸⁹¹ The regulations were also followed by a set of instructions to the governor. According to these instructions, the governor was to remind the *Jurats* of the economic benefits of British rule, and to "Take all proper care to acquaint our said Subjects with the terms of the 11th article of the treaty conducted at Utrecht on the 13th of July 1713 and as they are not entitled to any other privileges than what are therein specified."⁸⁹² Further, in order to avoid "frivolous and vexatious representations' to the Privy Council," Menorcan grievances could only be made by "persons of reputation in the island."⁸⁹³

Neither these new instructions, nor the regulations, however, were in effect for long. Tyrawley never made it to Menorca, and the beleaguered Blakeney was left to carry out these orders, causing outrage among the *Jurats*. Although they sent syndics to

⁸⁸⁹ Representation of the Island of Minorca to the Duke of Argyll and the Duke's answer, 5 December 1712, TNA CO 174/1 f. 1; Stanhope to Jurats, 17 October 1708, AM/U 158.

⁸⁹⁰ Tyrawley to Fox, 23 May 1753, BL Add MS 23638 f. 114.

⁸⁹¹ Recommendations of the Lords Justices, 10 August 1753, AM 374.

⁸⁹² Instructions for our Trusty and well lordof our island of Minorca, 25 August 1753, TNA CO 174/16 f. 138; 141.

⁸⁹³ Instructions for our Trusty and well lordof our island of Minorca, 25 August 1753, TNA CO 174/16 f. 144.

London to protest, the Privy Council dismissed the *Jurats'* complaints. Just three years after the regulations were promulgated, however, the French captured the island, cutting short Britain's latest attempt at imperial regulation in Menorca.

NEGOTIATING SUBJECTHOOD

Despite struggles over the spheres of military, civil, and ecclesiastical government, and the tight control military governors exercised over the civilian populations of Gibraltar and Menorca, the inhabitants of both colonies quickly learned to navigate the overlapping and sometimes unclear spheres of power by carefully negotiating what it meant to be (and in some cases not to be) a British subject. Many used the language of British law and subjecthood to assert their rights and to seek justice—with varying degrees of success.

In a striking parallel to the Fàbrigas case that established the right of Menorcans to bring suits in English courts, in 1778 Bernat Ferra petitioned Governor Murray, asking that Lieutenant John Lloyd be “tried by the Laws of England,” for the rape of Bernat's daughter, Francina.⁸⁹⁴ Lloyd and his alleged accomplices had been court-martialed in Menorca for the rape but were found innocent. The Ferras hoped to seek justice in the English civil courts, arguing that because the court had determined in the Fàbrigas case that “Minorquins being subjects of the British Crown, have a right to the protection and benefit of the Laws of England,” Francina's case should be heard in England.⁸⁹⁵ After considering his petition, however, England's Attorney and Solicitor Generals decreed that

⁸⁹⁴ Petition of Bernat Ferra, TNA CO 174/12 f. 15.

⁸⁹⁵ Petition of Bernat Ferra, TNA CO 174/12 f. 16.

“the offence charged upon Lieutenant Lloyd was properly triable by a Court Martial,” and that “the 11th Section of the Articles of War for apprehending offenders, and delivering them over to the civil or Magistrate do not extend to Minorca but are confined and apply only to places where the Judicature of England obtains.”⁸⁹⁶

As David Donaldson points out, although courts martial in Menorca often found British soldiers guilty of the theft, assault, and murder of male Menorcans, there is no record of any successful prosecution of a charge of rape—a fact that is hardly surprising for this period.⁸⁹⁷ As in the metropole, the protection of women had limited scope. In Gibraltar and Menorca, the protections of subjecthood were more often extended to those inhabitants who could help protect and provision the garrison, or who, as in the case of three runaway nuns, supported British conceptions of cultural or religious justice and allegiance. However, those rights of subjecthood were not extended to women who brought cases against British soldiers but did not themselves provide direct support to the garrison. Rarely were those rights extended to women whose cases challenged, rather than supported British notions of military order or religious superiority.

In Menorca, convoluted, inconsistent, or contradictory legal arguments were often used to deny any rights that might be too troublesome to uphold. While as a British subject, Fábrigas had the right to take the governor to court in England, in Ferra’s case, lower-ranking army men were safe from prosecution because “the Judicature of England” suddenly no longer seemed to extend to Menorca. In Gibraltar, contradictions usually ran

⁸⁹⁶ Wallace to Weymouth, 17 March 1779, TNA CO 174/12 f. 75.

⁸⁹⁷ Donaldson, *Britain and Menorca*, 308.

in the other direction—to grant rights to inhabitants who were not, in fact, subjects. The small civilian population of Gibraltar had more frequent contact with the garrison, and a much higher percentage of civilian inhabitants were involved in supporting or sustaining Britain’s military presence. Despite frequent threats to eject foreigners from the town, or deny residents lands or passes, there were also myriad creative workarounds that would enable foreign-born and non-Protestant inhabitants to claim some of the rights technically reserved for Protestant subjects.

As Hannah Weiss Muller points out, although military governors were periodically concerned that foreign spies might be lurking within the garrison, inclusive attitudes towards non-Britons was more common.⁸⁹⁸ For example, in 1756, with the threat of attack imminent, the governor ordered that “All Genoese and other foreigners now in this town and garrison,” report to the secretary’s office to give their names and take an oath of fidelity to the King. Any foreigner who did not comply would be “turned out of the Town.” The oath required that the takers “profess and declare” themselves “to be an Inhabitant of Gibraltar, and a Subject of His Britannick Majesty,” a statement, that, in the case of any “Genoese” or “other foreigner” oath-taker, was necessarily untrue. Despite the contradictions these oaths might create, they were common in Gibraltar as a quick and pragmatic way that both governors and inhabitants could evade official rules about subjecthood in a colony where so few inhabitants were native-born or Protestant. With such oaths, individuals might obtain the land grants, passes, fishing licenses, and a whole host of other privileges officially reserved for “British protestants” or “natural born

⁸⁹⁸ Muller, “The Garrison Revisited,” 368.

subjects. ” These oaths provided a procedure by which the governor of Gibraltar could work with the *actual* inhabitants of Gibraltar while still making concessions to the principle of the “ideal” natural-born-British-protestant-subjects who were too few in number to effectively support the garrison or supply the colony the alone.⁸⁹⁹ Numerous garrison inhabitants, understanding the advantages of such oaths, were quick to invoke their allegiance to the King and to assert their corresponding entitlement to protection.

Active participation in this support, especially during wartime, could also turn those considered potentially subversive enemies into an integral and loyal part of the garrison. Although a 1779 proclamation instructed that “all male Inhabitants, of whatever Country and Class, who are not willing to take up Arms, or perform such office as shall be requir’d in defence of this Fortress,” should immediately depart the Rock with their families, in the next breath it promised that those willing to assist, of whatever “country and class,” would be allowed to stay and were instructed to begin collecting provisions for the long siege ahead.⁹⁰⁰

Although governors were wary of spies in the garrison and town, and often gave orders to register and monitor foreigners, in some instances, the fact that these “foreigners” lived, worked and had families in Gibraltar made them more trustworthy than the British soldiers who were far from home. During the 1727 siege, for example, a group of Genoese men formed to monitor and protect the border with Spain after commanders realized that British soldiers were likely to desert if left in alone in far-flung

⁸⁹⁹ 2 September 1756, “Governor's Letter Book 1749-1766,” GGA f. 169.

⁹⁰⁰ 28 June 1779, “Civil Secretary's Register Book 4 (1779-1786),” GGA.

outposts. After the siege, this group was dubbed the “Genoese Guard,” and was made up of Genoese boys and men of the town until it was disbanded in 1775.⁹⁰¹

Despite the fact that governors were often willing to confer the practical rights of subjecthood on many of the Rock’s inhabitants, they also had enormous latitude to bestow or withhold these privileges from any inhabitants. In fact, the governor had the right to “expel from the fortress all persons without regard to nationality whom he did not think fit to permit to remain”—a right governors exercised in both war and peace.⁹⁰² For all inhabitants of Gibraltar, but especially for those not born in British territory, “rights and privileges” were more akin to favors granted at the governor’s pleasure.

Despite the fact that many of the Rock’s inhabitants were foreign born, from the very beginning of British rule there were some inhabitants who were born on the Rock and therefore undeniably British subjects—a population that would continue to rise as the civilian population became increasingly established. As this population grew, inhabitants of Gibraltar began to assert their rights as British subjects in efforts to counter the capricious decrees of the colony’s governors.

Some of the first British subjects born on the Rock were members of the Romero and de la Rosa families. These families were among the few residents who had stayed in Gibraltar after the Spanish evacuation. At that time, General Elliott had published a proclamation declaring that “all such Spaniards as should choose to remain in the said Town under obedience to the crown of Great Britain should be deemed British Subjects,

⁹⁰¹ Tito Benady, “Genoese in Gibraltar,” *Gibraltar Heritage Journal* 8 (2001): 87.

⁹⁰² History of the Permit System 1704-1871, 12 May 1871, GGA, 1.

and be protected & privileged as such in their Persons & Propertys.” In July 1752, Peter Romero and John de la Rosa wrote a petition on behalf on themselves and their families. The governor had limited the wine, rum, and tobacco trade to British merchants in 1751, and then in July 1752 he had signed a contract with James Read, John Lowes, Leeds Booth, and Richard Holride, giving them a monopoly on the trade for three years.⁹⁰³ Four days after the governor published news of the contract, Romero and de la Rosa sent a petition to London claiming that they should be considered British subjects and thus be entitled to a share in the wine rum and tobacco trade that Bland had recently restricted to British merchants and subjects.⁹⁰⁴

In their petition, Romero and de la Rosa argued that their fathers had “remained in Gibraltar; under Obedience to the Crown of great Britain & were ever after esteemed British Subjects, having thereby shaken off their Allegiance to the Crown of Spain.” The two families were the last remaining of the old Spanish Inhabitants, and they argued that they owned “no Soverign but His Britannick Majesty,” and that they had no “other Prince from whom to seek Protection.” They therefore desired “to be looked upon as British Subjects & to enjoy equal Protection and Privileges with the rest of his Majest’s British Subjects in the said Garrison & Town.”⁹⁰⁵

In deciding their case, the Attorney and Solicitor Generals were asked for their

⁹⁰³ 2 July 1752, GGA Governor’s letter Book 1749-1766, p. 89; 4 July 1752, GGA Governor’s letter Book 1749-1766, p. 96.

⁹⁰⁴ “Proposals of the Merchants with Regard to the Importation of Rum & Tobacco,” 28 February 1750/1, GGA Governor’s Letter Book 1749-1766 f. 58. John de la Rosa would later testify to the good character of Anthony Van Nes, “Sworn affidavit by Francis Butler, John de la Rosa, and Bartolomeo Danino, testifying to the good and exemplary character of Anthony Van Nes,” [January?] 1772, TNA SP 89/73/23 f. 78.

⁹⁰⁵ “The Case of Peter Romero & John de la Rosa & their Familys, Natives & Inhabitants of His Majest’s Town and Garrison of Gibraltar,” 8 July 1752, TNA CO 91/11 f. 281.

legal opinion on the specific status of subjects in Gibraltar. They were to decide whether Romero and de la Rosa, who were “natives and inhabitants” of the town and garrison of Gibraltar, could be denied opportunities for trade or contract, or whether they were “intitled to the Privileges of British Subjects at Gibraltar.”⁹⁰⁶ The ensuing report by the Attorney and Solicitor Generals stated that Romero and de la Rosa, having been born within the British Dominions and of parents living “under Obedience to the Crown of Great Britain,” were “as such are entitled to all the Priviledges of natural born Subjects at Gibraltar.” They affirmed that the two were indeed natural born subjects and thereby entitled to the privileges associated British subjecthood.⁹⁰⁷

The fact that the governor might have ever denied Romero and de la Rosa a contract on the basis of their subject status seems puzzling at first glance. Born in Gibraltar, they were thus legally British subjects. Further, by the 1750s, schemes to attract significant numbers of British merchants had largely fallen away and many residents of Gibraltar who were deemed only to be “inhabitants” had begun to receive many of the privileges of subjecthood. It was not uncommon, however, for British administrators to exercise contradictory interpretations of subjecthood for their own ends. Eager to provision the garrison, the Vice Admiralty Court might provide Mediterranean passes to a wide variety of inhabitants (and sometimes those who might not even reside in Gibraltar). On the other hand, the governor’s choice to contract with one group of merchants over another, might lead him to redefine the boundaries of British subjecthood

⁹⁰⁶ Holdernessee to Attorney and Sollicitor Generals, 14 July 1752, TNA CO 389/56 p. 120.

⁹⁰⁷ D. Ryder and W. Murray to Holdernessee, 26 July 1752, TNA CO 389/56 p. 125.

more narrowly.

CONCLUSION

British rule over the civilian populations of their Mediterranean colonies was uneven, contested, and often unsuccessful. Religious conflicts, overlapping and unclear spheres of power, the undecided and often ad-hoc status of the inhabitants of these colonies as British subjects, along with the inability of British law to define the diverse residents created a fraught political situation in the colonies. The undefined spheres of civil and military power fueled disputes between inhabitants and military authorities, and throughout the eighteenth century, inhabitants of Gibraltar and Menorca would have difficult relationships with their respective governors.

These Mediterranean colonies were above all military bases, key to controlling trade and engaging in warfare in the Mediterranean. In general, authorities in London were less interested in governing the relatively small civilian populations than in the colonies' strategic value. While the diverse community in Gibraltar would slowly develop relatively cooperative relations with the British authorities, in Menorca, deep-seated religious antagonism and overlapping spheres of power on the island led to an adversarial relationship in which British sovereignty over civil matters was hotly contested. Although subjecthood might provide islanders with rights they could employ for their own benefit, the British authorities and islanders remained mutually suspicious. Menorcans brought significant cases against five of the six lieutenant-governors in the eighteenth century, and their syndics spent months and even years in London carefully preparing cases to put before the Privy Council. The convoluted and contentious legal

pluralism of the island created an environment in which the British were never able to forge a deep-rooted allegiance from their subjects in Menorca.

Perhaps because Gibraltar did not suffer from the same complications of legal pluralism, and because its population consisted mostly of immigrants attracted to the Rock by new opportunities rather than natives occupied by a foreign power, British authorities managed to forge stronger (although more legally tenuous) bonds with civilians in Gibraltar. When the previous Spanish population fled the Rock, those who repopulated it were neither “natives of Gibraltar” nor born on British territory. Although governors of Gibraltar had a long history of controlling who was and who was not allowed in the colony, their decisions about who might be afforded the protections of subjecthood were often capricious (or perhaps calculating) and often based on circumstance rather than principle.

Despite the dominance of military rule, inhabitants’ right to bring their most grievous complaints before their sovereign was both an affirmation and a practice of their subjecthood. In appeals, memorials, and petitions to the governors and Privy Council, the inhabitants of the Mediterranean colonies defined the boundaries of subjecthood and allegiance to assert their rights and navigate the overlapping spheres of power that formed British imperial rule. Inhabitants and authorities navigated these overlapping spheres of power by instituting malleable policies, undertaking local diplomacies, sending appeals to London, and by using the language of subjecthood to assert and negotiate civilian rights and military authority.

Afterword. “To the shores of Tripoli”: British Subjecthood and the British Mediterranean in the Age of the New American Republic and the Napoleonic Wars

After the American Revolution, seafaring citizens of the new American republic were confronted with a vexing problem: the loss of the protections of British subjecthood, and, paradoxically, stubbornly lingering obligations to the British crown. No longer protected by Mediterranean passes, American sailors were at risk of capture.⁹⁰⁸ Although Americans sought to keep the protection of British Mediterranean passes as they negotiated the Treaty of Paris, Britain declined, resuming the “beggar-thy-neighbor” policy it had pursued against its European competitors in the seventeenth and eighteenth centuries. North African privateers, Britain hoped, might be useful allies in thwarting the Americans’ goal of free trade in the Mediterranean. As increasing numbers of American sailors were captured and enslaved, the new United States government was confronted by the important, but often-overlooked role British diplomacy with the Maghreb played in the safety of British subjects at sea. Although American politicians thought of the Barbary corsairs as “petty tyrants”—less important to America’s foreign policy than conflicts with France or Britain—it quickly became clear that without British protection, American diplomacy with North Africa would have to become a serious item on the new republic’s international agenda.⁹⁰⁹

⁹⁰⁸ American sailors were protected by French Mediterranean passes during the American War. Article 8, “Treaty of Amity and Commerce Between the United States and France,” 1778, Charles Irving Bevans, *Treaties and Other International Agreements of the United States of America, 1776-1949: Denmark-France*. Department of State, 1968. 763

⁹⁰⁹ Frank Lambert, *The Barbary Wars: American Independence in the Atlantic World* (New York: Hill and Wang, 2005), 6-7.

In fact, Moroccan sultan Sidi Muhammad was the first head of state to formally recognize the United States as a sovereign nation.⁹¹⁰ In 1778, he contacted Thomas Jefferson with a request for a peace and trade agreement between the two nations. In 1786 Jefferson, John Adams, and Sidi Muhammad signed the “Treaty of Friendship between the United States and Morocco”—a document similar to Morocco’s treaties with Britain.⁹¹¹ American ships and sailors would now be protected from Moroccan privateers—much as they had been before the Revolution. The Ottoman Regencies, however, were unwilling to extend trade agreements or Mediterranean passes to the new country without collecting considerable “tribute”—yearly sums of money that the tiny federal budget provided for by the Articles of Confederation could not hope to cover.⁹¹² No longer British subjects, American sailors were now vulnerable to captivity in the Maghreb, and in the decades following American independence, hundreds of American sailors were captured by North African privateers—causing a crisis for American trade with Europe and the Mediterranean.⁹¹³

⁹¹⁰ Priscilla H. Roberts and Richard S. Roberts, *Thomas Barclay (1728-1793) : Consul in France, Diplomat in Barbary* (Bethlehem PA: Lehigh University Press, 2008).

⁹¹¹ Treaty of Peace and friendship between the United States of America, and his imperial majesty the Emperor of Morocco, 1 Ramadan 1200 [27 June 1786], in Jonathan Elliot, *The American Diplomatic Code Embracing a Collection of Treaties and Conventions Between the United States and Foreign Powers: From 1778 to 1834 Vol. I* (Washington: J. Elliot Jr., 1834), 473-478.

⁹¹² Under The Articles of Confederation the United States congress had no authority to raise taxes independent of individual states, and thus lacked the funds to either pay tribute, or develop a navy to fight North African privateers. Further, the articles specifically prohibited congress from making any treaty that might prevent states from imposing their own duties and regulations—making any international peace treaty practically void. Lambert, *Barbary Wars*, 12; 51.

⁹¹³ “Report of the Secretary of State relative to the Mediterranean Trade,” 30 December 1790, Congress, United States, Joslin D. Blodget and Enos Thompson Throop *American State Papers: Class I Foreign Relations Vol. I* (Gales and Seaton, 1833), 104.

Although American sailors had lost their protection against Barbary corsairs, the durability of their obligations to the crown made subjecthood a double-edged sword for the young republic and its seafaring citizens. Americans might no longer have the rights and protections of subjecthood, but the British Navy was reluctant to release them from their *obligations* as British subjects. For Americans, the Revolution had fundamentally changed the relationship between the individual and the state. Subjecthood was perpetual, while citizenship was voluntary.⁹¹⁴ Under English law, subjecthood was inviolable: it could not be “forfeited, cancelled, or altered, by any change of time, place or circumstance.” Technically, every person born within the sovereign’s realms would be considered his subject forever.⁹¹⁵ Between 1793 and 1812, the British impressed more than ten thousand American citizens into the Royal Navy, claiming that because they were born in British territory, they were British subjects.⁹¹⁶ Sailors born on American soil were exempt from impressment, but those born in Ireland, Scotland, England or Wales were still considered British subjects—even if they were naturalized as American citizens. When in 1790 Congress widened naturalization to any “free white alien” who could prove that he was “a person of good character,” would take an oath, and had been a

⁹¹⁴ “Subjects vs. Citizens: Impressment and Identity in the Anglo-American Atlantic,” *Journal of the Early Republic* 30, no. 4 (December 1, 2010): 559.

⁹¹⁵ Edward E. Deacon, *A Digest of the Criminal Law of England: As Altered by the Recent Statutes for the Consolidation and Improvement of It vol. 1* (London: A. Strahan, 1831), 31.

⁹¹⁶ Denver Alexander Brunsman, *The Evil Necessity: British Naval Impressment in the Eighteenth-Century Atlantic World* (Charlottesville, VA: University of Virginia Press, 2013).

resident for two years in the United States, the opportunities for conflict between these new American citizens and British press gangs increased.⁹¹⁷

To avoid impressment, American mariners would have to carry documents proving their place of birth. Immigrants, or those without proper documentation, would have to take their chances. To make matters pricklier, as British subjects began to forge, steal, or falsify such documents, British naval officers became increasingly skeptical of the validity of any papers sailors might present.⁹¹⁸ As the French Revolutionary and Napoleonic Wars raged across Europe and the Mediterranean, the British Navy had even greater impetus to impress sailors from American vessels, and even less inducement to fret over documents or verify sailors' nationality.

American citizens, however, did not always eschew their British subjecthood altogether. Like so many who sailed the Mediterranean before them, Americans captured by North African corsairs might attempt to cross the lines of nationality or allegiance. American citizens—who might vociferously protest their citizenship when faced with the British press gang—might just as vociferously claim British subjecthood in order to be redeemed from captivity. In 1785 for example, mariners from the American ship the *Dauphin* were captured and enslaved at Algiers. Eleven of the sailors petitioned King George for their release, claiming that they had been born in British territory and were

⁹¹⁷ Naturalization Act, 26 March 1790, Charles Munde, *The Bancroft Naturalization Treaties with the German States; The United States' Constitution and the Rights and Privileges of Citizens of Foreign Birth* (Würzburg: A. Stuber, 1868), 145. The 1795 Naturalization Act revised the legend of residency to 5 years.

⁹¹⁸ Alan Taylor, *The Civil War of 1812: American Citizens, British Subjects, Irish Rebels, & Indian Allies* (New York: Vintage Books, 2011); Denver Brunson, "Subjects vs. Citizens: Impressment and Identity in the Anglo-American Atlantic," *Journal of the Early Republic* 30, no. 4 (December 1, 2010): 557.

thus British subjects.⁹¹⁹ One of these men, James Leander Cathcart, was born in Ireland, came to the American colonies as a boy, served in the Continental Navy during the Revolution, and was even taken as a British prisoner of war.⁹²⁰ In 1794 he wrote from Algiers to William Wilberforce asking for help raising money for his ransom. In his letter to the famous British abolitionist, Cathcart claimed that he longed to return to his “long lamented Patria.”⁹²¹ When he was finally released in 1796, however, it was through the intercession of American envoys, and Cathcart was thereafter appointed American consul at Tunis and Tripoli.⁹²²

In 1796, The United States finally signed treaties with Algiers, Tripoli, and Tunis, agreeing to pay large sums each year in order to obtain the Mediterranean passes that would protect their ships and citizens.⁹²³ The peace would not, however, last long. Unhappy with the provisions of the treaty and America’s late payments, in 1800 the Pasha of Tripoli demanded that the United States increase their tribute payments, or else face a declaration of war and attacks on American shipping. Jefferson hoped to tip the diplomatic negotiations in America’s favor—much as the British Navy often had in the seventeenth and eighteenth centuries—with a display of naval power, but without resorting to outright violence. He sent a squadron to the Mediterranean, hopeful that it might protect American merchant shipping and impress Tripoli with the might of the

⁹¹⁹ TNA FO 3/6 pp. 172-173 reproduced in Parker, Richard B. *Uncle Sam in Barbary: A Diplomatic History* (Gainesville FL: University Press of Florida, 2008), 220.

⁹²⁰ Nathan Perl-Rosenthal, *Citizen Sailors: Becoming American in the Age of Revolution* (Cambridge MA: Harvard University Press, 2015), 97.

⁹²¹ Parker, *Uncle Sam in Barbary*, 91

⁹²² Lambert, *Barbary Wars*, 94.

⁹²³ G. Thomas Woodward, “The Costs of State-Sponsored Terrorism: The Example of the Barbary Pirates.” *National Tax Journal* 57, no. 3 (2004): 599–611.

American Navy. The plan, however, was not a success, and naval skirmishes, battles, and blockades continued on and off for years. After a full-scale bombardment, aided by Arab troops loyal to the Pasha's brother, America and Tripoli finally signed a treaty in 1805. After five years of conflict, the United States agreed to pay a sum that was only ten percent of the tribute the Pasha had originally demanded.⁹²⁴

Just as Americans defeated Tripoli and anticipated free trade with the Mediterranean, the escalating conflict between Britain and France put American shipping and sailors in danger. Britain's ongoing wars with France had posed both new trading challenges and opportunities for the young nation. On one hand, as a neutral nation, America might take up trade that British and French ships had abandoned. In the fifteen years between 1792 and 1807, American exports increased by over 500 percent.⁹²⁵ By 1812, America would have the second largest merchant fleet in the world, and American ships and goods reached into the Baltic Sea and the Levant.⁹²⁶ On the other hand, the rival European powers began to impose new restrictions on ships of neutral counties. When Napoleon decreed a continental blockade of Europe, banning British merchandise, England replied with a series of *Orders in Council*, which forbade trade with any French-held ports. Any violation of these restrictions could put American ships at risk of search, seizure, or attack.⁹²⁷

⁹²⁴ Lambert, *Barbary Wars*, Chapter 5.

⁹²⁵ The total value of exports from the United States rose from \$21 million in 1792 to \$108 million in 1807. Charles P. Kindleberger and Guido Di Tella eds., *Economics in the Long View* Volume 2 Applications and Cases Part I (London and Basingstoke: Macmillan, 1982), 47.

⁹²⁶ Brian Arthur, *How Britain Won the War of 1812: The Royal Navy's Blockades of the United States, 1812-1815* (Woodbridge: Boydell & Brewer Ltd, 2011), xxi.

⁹²⁷ Lambert, *Barbary Wars*, 169.

American mariners also still sailed in fear of the British press gang, and tension between America and Britain was on the rise. The attack on the American USS *Chesapeake* by the British *Leopold* would bring the two nations one step closer to war. In June 1807, the *Chesapeake* set sail from Norfolk, Virginia for the Mediterranean. The *Chesapeake* had been the flagship of the Mediterranean squadron since 1801, and had taken part in operations against Tripoli and the other Ottoman Regencies. In 1807, it was headed for a two-year assignment in the Mediterranean where it would provide escort for American merchant ships, and would help to “remind the Barbary pirates any raids on American shipping would be met by overwhelming force.”⁹²⁸ Before the *Chesapeake* departed, the British Navy complained that five deserters had enlisted aboard the American ship. After investigating the issue, Captain James Barron determined that at least three of the deserters were in fact American citizens who had been pressed into Royal Navy service. Therefore, he refused to turn them over to British authorities.⁹²⁹ As the *Chesapeake* came into the open sea, however, the British ship the *Leopold*, confronted her and ordered that the captain submit to a search for British deserters. When Barron refused, the *Leopold* fired on the American ship, killing three sailors and wounding eighteen before boarding the *Chesapeake* and removing four crew members who would be tried for desertion from the British Navy.⁹³⁰

⁹²⁸ Lambert, *Barbary Wars*, 172.

⁹²⁹ Lambert, *Barbary Wars*, 173-174.

⁹³⁰ Denver Brunsman, “Subjects vs. Citizens: Impressment and Identity in the Anglo-American Atlantic,” *Journal of the Early Republic* 30, no. 4 (December 1, 2010): 557; Robert E. Cray, “Remembering the USS *Chesapeake* : The Politics of Maritime Death and Impressment,” *Journal of the Early Republic* 25, no. 3 (2005): 445-74.

The so-called “Chesapeake affair” outraged the American public, and fueled the simmering tensions that would lead to the war of 1812 five years later. With its flagship badly damaged, America would have to withdraw its squadron entirely from the Mediterranean. In his annual message to congress Jefferson opined that, “under this new law of the ocean our trade on the Mediterranean has been swept away by seizures and condemnations.” In this case, these “seizures and condemnations” that interrupted the Mediterranean trade were made not by North African privateers, but instead by the British Navy.⁹³¹

Britain and America finally went to war in 1812—fueled in part by British impressment of American citizens, British restrictions on American trade, and the harassment of American ships such as the *Chesapeake*. Alan Taylor argues that the War of 1812 “pivoted on the contentious boundary between the king’s subject and the republic’s citizen.”⁹³² Taylor argues that by “seizing supposed subjects from merchant ships, the Royal Navy threatened to reduce American sailors and commerce to a quasi-colonial status.”⁹³³ By engaging in war with the British, Americans would not only assert their independence, but also protect their citizenship.

While the American Navy was caught up in (and blockaded by) the war, the Ottoman Regencies—Algiers in particular—took the opportunity to prey on unprotected American shipping and to pressure the United States to increase their tribute payments.

⁹³¹ Thomas Jefferson, “Seventh Annual Message,” 27 October 1807, in *The Statesman’s Manual: The Addresses and Messages of the Presidents of the United States, Inaugural, Annual, and Special, from 1789 to 1854...Vol. I* (New York: E. Walker, 1854), 201.

⁹³² Taylor, *The Civil War of 1812*, 4.

⁹³³ Taylor, *The Civil War of 1812*, 4.

The British—still close allies of the Barbary States—were also complicit in this plan: an 1812 letter from London to Algiers assured the Dey of British support against the “enemies of Great Britain.”⁹³⁴ When Britain and America finally came together to negotiate a peace in 1815, the talks stalled around the issue of impressment. In the end, the Treaty of Ghent largely returned the British-American maritime relationship to the status quo. The two countries reached no agreement about the subjecthood of American sailors, or British constraints on American trade. One week after it was ratified however, Congress declared war on Algiers. Hoping to secure a lasting and satisfactory peace in North Africa, they sent squadrons to force all three Ottoman Regencies to sign treaties that would require neither tribute nor ransom to free American captives. Because of the enormous growth of the navy during the war of 1812, the Regencies were quickly convinced. Although America had not been able to jettison the obligations of British subjecthood, they were able to acquire new protections for American citizenship with North African states.

Definitions of British subjecthood born in the eighteenth-century Mediterranean continued to reverberate into the early nineteenth century, and would become a central problem for the early American republic. James Cathcart described himself and his fellow American captives in Algiers as “victims of independence.”⁹³⁵ Americans, who

⁹³⁴ William Spencer, *Algiers in the Age of the Corsairs* (Norman OK: University of Oklahoma Press, 1976), 139.

⁹³⁵ Lawrence A. Peskin, *Captives and Countrymen: Barbary Slavery and the American Public, 1785–1816* (Baltimore: The Johns Hopkins University Press, 2010), 90.

were now in competition with British trade, would no longer be protected as British subjects by Mediterranean passes. With independence came the loss of American sailors' protection as British subjects. While in the eighteenth century, subjecthood might be expanded to residents of the Mediterranean who would help provision the garrisons at Gibraltar and Menorca, it could also contract, in order to control former subjects who were now Britain's commercial competitors.

For most "new subjects" in the British Mediterranean in the eighteenth century, "British subjecthood" was instrumental, and not connected with wider ideas about culture or identity. In a region with few native-born Britons, few British administrators, and only tiny British territories, "British Subjecthood" had little cultural significance to either groups or individuals. When the British lost the North American colonies, the number of British subjects who might plausibly be considered white, Protestant, or free, dropped precipitously. New conceptions of subjecthood and empire were taking shape. In America, citizenship was hard won and culturally meaningful, if still complex and mutable. America's victories over Tripoli in 1807, for example, might inspire patriotic songs, poems and plays. The impressment of American citizens by the Royal Navy might raise patriotic outrage. In the tentative and formative years of the fledgling republic, however, captives like James Cathcart would still find it useful to slide between the unstable categories of subject and citizen for their own protection or freedom.

CONCLUSIONS

In retrospect, it seems clear that the eighteenth century was a time of enormous change for the British Empire and for the practice of British subjecthood. With the loss of

the American colonies, and the “swing to the east,” the British Empire, as Kathleen Wilson puts it, “once idealized as the domain of free white British peoples...had become the imperium of palpably alien colonial subjects.”⁹³⁶ “Britishness” might be increasingly limited by race and geography, but by 1783, British subjects lived all over the globe and were of many cultures, races, and religions. The American War “provided irrefutable evidence,” Wilson argues, “that the British empire was comprised not just of free British subjects but of large numbers of alien people, incorporated into the empire by conquest, not consent.”⁹³⁷

Since the early eighteenth century, however, the British Mediterranean, had been neither been composed of white settler colonies, nor a territorial possession in which “large numbers of alien people,” were incorporated into the empire by conquest. Instead, British power in the Mediterranean was seaborne and mobile. British sovereignty in the region was shaped by the Treaty of Utrecht, restricted by the presence of other powerful states, and dependent on good diplomatic relations with North Africa. This British Mediterranean was peopled and administered by only a scattered population of native-born Britons and managed only by regular correspondence between merchants and consuls, ambassadors and admirals, governors and the ministry in London, and by the circulation of ships, goods, people and documents. Instead of white settler colonists, it was populated by linguistically and culturally diverse people—Menorcans and Moroccans, Genoese and Greeks, Jews, Catholics, Muslims and Christians of many sects

⁹³⁶ Kathleen Wilson, *The Island Race: Englishness, Empire and Gender in the Eighteenth Century* (London: Routledge, 2002), 11.

⁹³⁷ Wilson, *Island Race*, 51.

and of many nations.

The British Mediterranean, then, did not fit comfortably into any contemporary conception of the British Empire. The local negotiations, compromises and improvisations practiced in the Mediterranean demonstrate not only a different model of British sovereignty and subjecthood, but also reveal how a diverse population—largely uninterested in “Britishness,” “national identity” or the ideals of empire—engaged with British power to safely navigate eighteenth century imperial warfare and expansion. The looming crisis of empire and identity that would be brought on by the territorial gains of the Seven Years’ War and the territorial losses of the American Revolution, was not clear to the Mediterranean peoples who lived in its impending shadow. Despite the ongoing conflicts with military governors, religious antagonisms and civil abuses, these subject “aliens” were not protected only by treaties. They were, in fact, essential to British naval expansion and war. Truly subjects at sea, they were not only subject to British sovereignty, but, through the malleable practices of British subjecthood, they helped to extend British sovereignty into a diverse and contested maritime realm. By extending rights and protections to a diverse and mobile population, the British created an empire of people, rather than territory—an empire of accommodation, collaboration and creative diplomacy, rather than sheer conquest. As for themselves, the “alien subjects” of the Mediterranean saw opportunities to both collaborate with and subvert British power. And to don, shed and transform British subjecthood.

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